

THE
Communications of Mercator,
UPON THE
CONTEST
BETWEEN
THE EARL OF SELKIRK,
AND THE
HUDSON'S BAY COMPANY,
ON ONE SIDE,
AND
THE NORTH WEST COMPANY
ON THE OTHER.

REPUBLISHED FROM THE MONTREAL HERALD.

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PREFACE.

IT having been thought advisable to reprint, in a Pamphlet, the Communications made by me to the Printer of THE MONTREAL HERALD, I have, in consequence, to apologise to those who may now read them in connexion, for the frequency that occurs of what may be termed repetitions.

When I first took up the pen, it was for the purpose of introducing certain law opinions, in opposition to those published by the Earl of Selkirk, or by his order ; but being attacked, I was necessarily led into a wider range, by the misrepresentations and violence of his Lordship's advocates and supporters.

My Communications having been written at different periods of time, and without the then intention of re-publication together, it was material that the strong points against Lord Selkirk, viz. the want of legal foundation in his claims to colonial territory and commercial mo-

vopoly; and his being always the aggressor in supporting them, should be kept in a prominent point of view.

Such points were therefore repeatedly impressed upon the public attention, and, I trust, with some effect; for it cannot but appear most extraordinary, that he, whose pretended rights have been shewn to be unfounded, and his self-styled governors, who neither had legal appointment and confirmation, nor had been legally qualified for office, should, with so high a hand, and in contempt of all the established principles of procedure upon contested claims, attack the rights and interests of others so long previously enjoyed, without other authority for such attack, than his and their acts, whereby they constituted themselves judges in his and their own cause.

MERCATOR.

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Communications of Mercator.

TO THE PRINTER OF THE MONTREAL HERALD.

MR. GRAY,

THE public attention has of late been so much called to what has been written and said about the claims of Lord Selkirk and the Hudson's Bay Company, to an exclusive right of trade and soil within certain territories in the North West, that a plain statement and exposition of the merits of the question, divested of sophistry, cannot but be acceptable to those who are disposed to exercise their reason upon its examination, instead of passion and prejudice.

I shall premise, by laying down two principles, 1st, that the crown cannot grant an exclusive right of trade, without the concurrence or confirmation of Parliament; and 2d, that the crown could not grant a territory, which at the time of the grant belonged to another sovereign, and more especially, if then in the undisturbed occupancy of the subjects of that sovereign.

Hudson's Bay was first approached by land by two French gentlemen, Monsr. Radisson and Monsr. De Groseilliers, who were conducted thither across the country,

country, from the interior of Canada or New France, by Savages. Succeeding in this, they returned, and went to Quebec, offering to the merchants there, to conduct ships to Hudson's Bay, but their proposal was rejected. They then applied in Paris with no better success, when the English Ambassador persuaded them to go to London, where they met a favorable reception from some persons of quality and merchants, who intrusted Mr. Gillam, (a person long used to the Newfoundland trade) to prosecute the discovery. He sailed in the Nonsuch Ketch, in 1667, into Baffin's Bay, to the height of 75 degrees, and from thence southward to 51 degrees, where he entered a river, to which he gave the name of Prince Rupert's, and finding the savages friendly to trade, he there erected a small fort. The persons concerned in the outfit of this vessel, upon the return of Gillam, applied to Charles, II. for a patent or charter, who granted them one, dated 2d May, 1670.

In that year, the Company sent over Chas. Bailey, Esqr. as their governor, who, with Mr. Radisson, settled at Rupert's River, and established another factory at fort Nelson. In 1683, Henry Sargeant was made governor at Rupert's river, with orders to be careful of the French, who began to be jealous of the trade. The French claimed the continent at the bottom of the Bay, as a part of New France, and indeed to the country across to Rupert's River, from a river which runs into the St. Lawrence.

In 1686, the Hudson's Bay Company had five forts
or

or settlements for trade, viz: Albany River, Hayes's Island, Rupert's River, York, and New Severn. The jealousy of the French increased, who attacked and took by surprise, in a time of profound peace, Hayes's Island, in Nelson River. This was done by the Chevalier de Troyes, who went over land from Quebec and in July, 1686, came before Albany fort, which Governor Sargeant attempted to defend, but was compelled to surrender in a week, upon articles which were badly kept.

In 1693, the Hudson's Bay Company, assisted by government, retook these forts, but soon after were again driven out by the French. In 1696, they applied to King William, who aided the Company with two men of war, when these forts were all retaken. In the next general war, the French renewed their attacks, and captured all but fort Albany. At the treaty of Utrecht, in 1713, all were restored to the English, as will appear by the subjoined 10th article of that treaty, which provided for the appointment of Commissioners to settle a line of boundary, but they never sat, or made any report.

A Beaver Company was erected in Canada in 1630, who traded to the interior for peltries, prior to the date of the Charter of the Hudson's Bay Company. And Captain Dobbs who wrote before the war of 1755, says, that in 1742, the French had a settlement for trade near the southern branch of York or Nelson river, 100 miles above the English factory, where they sold their goods cheaper than the Hudson's Bay Company,

Company, by which they got all the choice skins, and none but refuse were left for the Company. The French at that time had another settlement for trade pretty high up on Rupert's River. The trade at Churchill, on the bay, was increasing, being at a greater distance from the French. "The Company" says Capt. Dobbs, "avoid all they can making discoveries to the northward of Churchill; for fear they should discover a passage to the Western Ocean, and tempt by that means, the rest of the English merchants to lay open their trade, which they know they have no legal right to."

Mr. Joseph Robson, formerly in the employ of the Hudson's Bay Company, who also before the war of 1755, wrote an account of six year's residence in Hudson's Bay, viz. from 1733 to 1736, and 1744 to 1747, in assigning reasons why the Hudson's Bay Company had acted with such a want of enterprise, says, "but the true reason is obvious: they had no legal right to their exclusive trade since the year 1698, at which time the act of parliament expired, that confirmed their charter only for seven years." This is a conclusive proof of the first principle above laid down, that the crown cannot give an exclusive right of trade, for if the Hudson's Bay Company's charter required a parliamentary confirmation for seven years, the moment that time expired, the confirmation ceased, and the charter became void as to the future trade.

Long after the treaty of 1763, and surrender of
Canada

Canada to Great Britain, viz. in 1774, and not before, the Hudson's Bay Company extended their trading posts from the Bay into the interior, where they found traders from Canada, successors to the rights of the subjects of France so long before exercised in that trade, and both parties were thenceforth alike entitled to the pursuit of it freely. The French were the first European discoverers and occupiers of the interior territory in question, and the traders from Canada have since extended those internal discoveries, so that no charter to the Hudson's Bay Company, nor grant from them to Lord Selkirk, could possibly convey lands or trade never possessed by Great Britain, until after the said Treaty of 1763. It surely requires no argument to prove, that a Country to which the right was to be decided by a joint act, under the sovereign powers of England and France, could not be granted away by the separate act of one of them; and consequently I consider my second principle as above laid down, fully established.

The following legal opinions were obtained in London, last January, in answer to questions respecting the Hudson's Bay Company's charter, and other matters, submitted to those, whose names are subscribed.

“ The Prerogative of the Crown to grant an exclusive Trade was formerly very much agitated in the great case of the East India Company, *versus* Sandys. The Court of King's Bench, in which * Lord Jeffreys
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* The character of Judge Jeffreys is too well known to entitle his decisions to any weight.

then presided, held that such a grant was legal, and we are not aware that there has since been any decision expressly on *this question* in the courts of law.

Most of the Charters for exclusive trade and exclusive privileges to companies or associations, have since the revolution received such a degree of legislative sanction, as perhaps to preclude the necessity of any judicial decision on *it*.

“ Much more moderate opinions were entertained concerning the extent of the prerogative since the revolution, to which is to be attributed the frequent recourse after that period to Legislative authority in such cases, and particularly in the very case of the Hudson’s Bay Company ; for by the temporary act of II of William and Mary, “ for confirming to the “ Governor and Company trading to Hudson’s Bay “ their privileges and trade,” the duration of that confirmation, is expressly limited to seven years, and to the end of the then *next* session of Parliament, and no longer. Part of the Preamble of that act, is in effect a legislative declaration of the insufficiency of the charter for the purposes professed in it, without the authority of the Legislature : and which authority entirely ceased, soon after the expiration of the seven years after that passed.

“ Such rights, therefore, as the Hudson’s Bay Company can derive from the Crown alone, under their extraordinary charter as it is, must now entirely rest upon, and stand or fall by the common law prerogative of the Crown.

The

„ The right of the Crown merely to erect a company for trading by charter, and to make a grant of territory in Charles the II's reign may not be disputable ; but on the other hand, there are various clauses in the Hudson's Bay Company's charter, particularly those empowering the company to impose fines and penalties—to seize or confiscate Goods and Ships—and seize or arrest the persons of interlopers, and compel them to give security in £1000, &c. &c. which are altogether illegal, and were always so admitted ; and we are clearly of opinion, that the company and their officers, agents, or servants, could not justify any seizure of Goods, or arrest or imprisonment of the persons of any of His Majesty's subjects.

“ But we think that the Hudson's Bay Company and their Grantee Lord Selkirk, have extended their territorial claims much further than the charter will warrant, supposing it even free from all the objections to which we apprehend it is in other respects liable ; the words of the grant pursuing the recital of the petition of the grantees with a very trifling variation, that cannot affect the construction of the instrument, are, of the sole trade and commerce of all those
 “ seas, streights, bays, rivers, lakes, creeks, and sounds,
 “ in whatever latitude they shall be, *within the en-
 “ trance of the streights commonly called Hudson's
 “ streights* : together with all the lands and territories
 “ *upon the (countries †) coasts and confines of the seas,*
 “ *bays,*

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† The word Countries by accidental transposition in the Charter, has become nonsense, and ought to have been inserted between the words “ lands ” “ and ” which would correspond with the petition for the charter, as therein recited.”

"bays, lakes, rivers, creeks, and sounds aforesaid;" that is, within the streights, and those limits are frequently referred to throughout the charter, as the limits aforesaid.

"*Within the streights* must mean such a proximity to the streights as would give the lands spoken of a sort of affinity or relation to Hudson's streights, and not to lands commencing at the distance of 900 miles, and extending 2000 miles therefrom—that is to say, of the coasts and confines of the seas &c. within the streights, such a boundary must be implied as is consistent with that view, and with the professed objects of a trading company, intending not to found kingdoms and establish states, but to carry on fisheries in those waters, and to traffic for the acquisition of furs and peltries, and the other articles mentioned in the Charter. The enormous extension of land and territory now claimed, appears therefore to us not to be warranted by any sound construction of the charter.

"Indeed there is sufficient reason to suppose that the territories in question or part of them, had been then visited, traded in, and in a certain degree occupied by French traders from Canada, and their beaver company erected in 1630, whose trade in Peltries ^{was} ~~were~~ considerably prior to the date of the charter of the Hudson's Bay company. These territories, therefore, would be excepted out of the grant; and the right of British subjects in general to visit and trade in those regions would follow the national rights acquired by the king, by the conquest and session of Canada, as enjoyed by the French

French Canadians, previous to that conquest and cession.

“ No territorial right therefore can be claimed in the districts in question ; and the exclusive trade there cannot be set up by virtue of the charter ; these districts being remote from any geographical relation to Hudson’s Bay and to the streights, and not being in any sense *within the streights*, nor approached by the traders from Canada, through the interdicted regions, of course no violence to, or interruption of trade from Canada, could be justified under the territorial claims.

“ If contrary to our opinion, the land and territory in question, were within the grant, the grant of so large a portion of territory as that to Lord Selkirk of 116,493 square miles, would be an abuse of the charter, which might justify the interference of the crown ; because, though the company might have a right to make grants of land, such grants must be for the promotion of, or at least consistent with the object of the institution ; but the grant to Lord Selkirk leads to an establishment independent of the company, inconsistent with the purposes of their institution, and in its effects erecting a sub-monopoly in one person, to the detriment both of the company and of the public. The company could confer no power to Lord Selkirk to appoint governors, courts of justice, or to exercise any independent authority, nor could they directly or indirectly transfer their authority to him.

“ There seems no reason to doubt, that offences actually

tually committed in the territories and districts in dispute, where no court of judicature ever has been established, can in point of jurisdiction legally be tried by the courts of Canada, under the XLIII Geo. III. cap. 134; and indeed unless this district was within the provisions of that act we cannot discover what territory was meant to be included in it.

“ Supposing the charter of the Hudson’s Bay company valid and the districts in dispute to be within their limits, we should doubt whether the Governor and company, have lawful power, by the charter, to establish courts for the trial, by the laws of England, of offences committed therein. That power the company have never yet attempted to exercise, though nearly 150 years have elapsed since they procured their charter; but if even they should still possess this extraordinary power without further authority, legislative or regal, we should nevertheless think, that no courts there established could have authority to try and punish *as an offence, the act of going there simply*, which if the grant were legal, could amount at the most only to a misdemeanor, or contempt of the king’s lawful authority, to be prosecuted at the suit of his Majesty.”

(Signed)

A. PIGGOTT,
R. SPANKIE,
H. BROUGHAM.

London, January, 1816.

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A separate opinion of another Lawyer in London, of pre-eminent abilities, was also had in January last, which substantially coincides with the above : and more pointed law opinions some years ago, were given by Messrs. BEANCROFT and GIBBS, also eminent in their profession, against the validity of the Hudson's Bay Company's pretensions to an exclusive right of trade.

Doctor Adam Smith also says, that the Hudson's Bay Company have no right in law to an exclusive trade.

Thus, in which ever way Lord Selkirk's pretensions are considered, their legality will fail to appear, and he can not be allowed to judge in his own cause. To bring them, however, to the comprehension of the meanest capacity, I will ask, if his Lordship were to say to a person in quiet possession by himself and predecessors for above 50 years, of a house in Montreal, quit that house; it is built upon my ground—whether it would not be legal and proper to answer, No? Let your Lordship's claim, if you have one, be previously determined in his Majesty's courts, and it is your business, not mine, to institute the proceeding. But, if instead of this, you attempt to dispossess me by force, I have resolved upon, and feel myself justifiable in making the most decided resistance. This is the real merit of the case in contest, when divested of misrepresentation.

The North West Company have courted a legal discussion

discussion of the point of right, yet none has been brought on, although traders from Canada have annually, since the conquest, gone into the interior, and a number of years ago, a vessel belonging to that company entered Hudson's Bay.

They also attempted an amicable accommodation, by liberal proposals, in order to avoid future difficulties, but the negociation failed, because his Lordship required as a *sine qua non*, the admission of his inordinate claims, according to *his interpretation* of the Charter of the Hudson's Bay Company; which of course was inadmissible. To his Lordship's obstinacy therefore, is to be attributed all the distressing circumstances which have happened or may happen, from his persisting in the application of physical force, instead of legal proceedings to decide the contested rights.

MERCATOR.

Montreal, 28th August, 1816.

*10th Article of the Treaty of Utrecht, concluded
in 1713.*

“ The said most Christian King shall restore to the
“ kingdom and Queen of Great Britain, to be possessed
“ in full right for ever, the Bay and Streights of Hud-
“ son, together with all lands, seas, sea-coasts, ri-
“ vers and places, situate in the said Bay and Streights,
“ and which belong thereunto, no tracts there of land,
“ of sea being excepted, which are at present possessed,

by

" by the subjects of France. All which, as well as any
 " buildings there made, in the condition they now are,
 " and likewise all fortresses there erected, either before
 " or since the French seized the same, shall, within six
 " months from the ratification of the present treaty, or
 " sooner if possible, be well and truly delivered to the
 " British subjects, having commission from the Queen of
 " Great Britain, to demand and receive the same entire
 " and undemolished, together with all the cannon, &c.
 " It is, however, provided, that it may be entirely free
 " for the company of Quebec, * and all other the subjects
 " of the most Christian King whatsoever, to go by land
 " or by sea, whethersoever they please, out of the lands of
 " the said bay, together with all their goods, merchan-
 " dizes, arms and effects, except such things as are a-
 " bove reserved in this article. But it is agreed on
 " both sides to determine within a year by Commissaries,
 " to be forthwith named by each party, the limits which
 " are to be fixed between the said Bay of Hudson, and
 " the places appertaining to the French; which limits
 " both the British and French subjects shall be wholly
 " forbid to pass over, or thereby to go to each other by
 " sea or by land."

* Can there be a stronger proof of that company having had Traders
 in the interior, an age before the Hudson's Bay Company ventured out of
 sight of the Bay!

For the Montreal Herald.

MR. GRAY,

In the last Herald, I observed a communication in answer to mine, dated 28th August, inserted in the former number, in which I am stated to have asserted a direct falsehood. I deny the charge, and re-assert that the *basis* of Lord Selkirk's *ultimatum*, otherwise, *sine qua non*, for an accommodation with the North West Company, was substantially, as stated by me, and was so understood by them at the time, as appears by their answer to his final or concluding proposition, entitled, "*sketch of an arrangement between the Hudson's Bay and North West Companies*," from which the following are extracts, viz :

"The North West Company have to observe, that the
 "basis of that arrangement, being an acknowledgement
 "of the validity of the Charter of the Hudson's Bay Com-
 "pany, it is inadmissible, and incapable of any modifi-
 "cation to which they can assent. It would, therefore be
 "useless to take up his Lordship's time, and their own,
 "by entering upon the objectionable part of the de-
 "tails, when their principle is denied. It is true
 "that Lord Selkirk stated to Mr———such a basis,
 "and equally true, that the latter declared an arran-
 "gement

gement to be impracticable, if it was persisted in."
And in another part of it, they say :

"Lord Selkirk having recurred to the offer of an arbitration, the North West Company have to answer, that it affords no reciprocity whatsoever ; for as the Hudson's Bay Company claim exclusive rights, if those were to be arbitrated upon, and decided in their favor, they would turn the North West Company out of the trade ; whereas, on the other hand, if a decision should be given against the Hudson's Bay Company, they would still, as British subjects, remain entitled to equal rights with the other company. Thus, under the specious exterior of an arbitration, the North West Company would be risking a substance in pursuit of a shadow.

" It rests with the Hudson's Bay Company to take, or not to take, as they see fit, measures for procuring a legal decision in the regular courts of justice, upon their pretentions to exclusive trade, as the commencement of such measures cannot be expected from the North West Company, who have for so long a period exercised and enjoyed those general rights of trade, to which they lay claim, and from which they will not depart, unless by legal compulsion.

" Upon the whole, it is a painful reflection for the North West Company to find themselves obliged to abandon further negociation at present, as hopeless, and to see that a pecuniary contest is forced upon them, which they cannot shrink from, and must continue,
" until

"until the Hudson's Bay Company shall entertain a different view of their real interests."

His Lordship's proposed arbitration by lawyers, was indeed of a novel kind, for what man in his senses would leave it to be decided by others, whether he should lose all his trade within prescribed limits, but agree that his opponent should remain, at all events, in possession of what he held. In other words, to risk all, but to gain nothing even by possibility. I call upon the author of the communication, to publish the answer, as he asserts to have been given by the agents of the North West Company, wherein "they observed, that Lord Selkirk, or the Hudson's Bay Company might feel interested in having those claims finally settled, but that the North West Company were not so interested, and therefore the *sine qua non* was inadmissible." Now I maintain that no such answer exists in any part of their correspondence, and if he cannot produce it, he must stand convicted before the public, of publishing *a deliberate gross falsehood*.

The meanness he accuses me of, will attach only to himself, for I have asserted nothing but truth, which instead of misleading the public mind, tends only to expose the misrepresentations of such supporters of his Lordship's cause, as the author of the above. As to publishing my remarks during his Lordship's absence, it is of no moment, as he has a very active and able confidential agent on the spot; and in respect to delicacy, as none is observable in his own proceedings, he can be entitled to little from others. In

In my last, I omitted to remark, that the petition for the Hudson's Bay Charter, and the Charter itself, expressly except all countries or territories then possessed by any British subjects, or by subjects of any other Christian power or state, which exception clearly excludes from the charter, the territory or country claimed by his Lordship, it being then, and for near a century afterwards, occupied by traders from Canada, without interference from Hudson's Bay traders.

MERCATOR.

Montreal, 12th Sept. 1816.

For

For the Montreal Herald.

MR. GRAY,

I find that I am attacked in a most unmerciful manner in *your Herald*, by a writer under the signature of *Manlius*, (alias author of the communication in that of 7th September, alias Philo-Manlius, for Proteus like, he assumes a variety of shapes) who threatens me with loss of character, if I persist.

Without waiting to know the result of this threat, he uses it as a peg whereon to hang a most unjustifiable attempt to prejudice the public mind in respect to accusations made by his client, against persons, who are to undergo a trial. Nothing said by me could possibly furnish a reasonable excuse for such a conduct, but having commenced the attack, he must expect retaliation.

Manlius is a true disciple of the Selkirk school ; he wishes to intimidate where he cannot deceive, and to misrepresent where he cannot fairly meet the truth. The days of Robespierre hardly exhibited a more perfect system of espionage, terror and deception, than is practising by his Lordship and coadjutors. Manlius has however mistaken his man on the present occasion, and those threats, instead of stifling, will necessarily call

call forth in due time, some anecdotes of his Lordship, which will render him better known to the public.

Altho' I have to contend with an opponent, who to judge of him by the length of his writings, is a hireling paid by the yard, and habituated to make the worse appear the better cause, yet I feel confident, of being able to convince, where he can only confound.

He pays me unintentionally a very high compliment, by acting upon the principle that every sentence I have written, requires scores of his to overturn; else why impose upon his readers a story enveloped in such a maze of words.

In opposition to every fair principle of reasoning, Manlius begins by assuming what he ought first to prove, and then argues, as if his assumed data were admitted. Now, I deny the whole data from whence he draws his conclusions, and until these be settled, his arrogant and high sounding logomachy is worse than useless.

I asserted, and I re-assert, that the claimed monopoly of Trade in the Hudson's Bay Company, is illegal; because the crown could not, without the sanction of Parliament, grant such exclusive right, and in proof of it, I (with other matter) adduced the fact, that that Company was so sensible of this, that they applied for and obtained a parliamentary confirmation of their charter for seven years, which being never renewed the monopoly fell to the ground. The
preamble

preamble to that temporary confirmation, declared the insufficiency of the charter, without parliamentary sanction, and yet the Hudson's Bay Company have acted without it ever since. Now as Manlius has found it convenient to pass over this fact without notice, I request him to explain, why such a sanction was considered by that company, above 100 years ago, needful to the legal exercise of their grant, when Royal Power stood high, and not be equally necessary now, when that power is so much more clearly defined.

Again, I asserted and re-assert, that the charter or grant, whether good or bad, never extended beyond the country adjacent to Hudson's Bay, and was especially, both in the petition for it, and the actual grant, restricted, so as to exclude from its operation, all lands in the occupancy of the subjects of every other christian Prince or State. And, I satisfactorily established, that the French were in the occupancy by discovery, and commercially of the country in dispute viz. the red River &c. which consequently were, *ipso facto*, excluded from the charter : also in additional proof of that exclusion, I quoted the clause of the treaty of Utrecht, having reference to Hudson's Bay, which establishes to a certainty, that a line of boundary there, was to have been drawn, but which being never done, each country retained what was covered by its commercial occupancy, viz. Great Britain, the coasts of the Bay, and France the interior, until by the conquest of Canada, and the treaty of peace in 1763, the whole merged in Great Britain. In consequence

quence every British subject became entitled to prosecute through Canada, the Indian trade, which French subjects previously enjoyed ; and the Hudson's Bay Company could legally claim no privilege in the trade through the Bay, but what they enjoyed before that treaty, and which never extended 50 miles from the coast, whereas the Red River country commences at above 600 miles distance therefrom ; and there is a notorious proof of prior French occupancy in the fact that there were French Missionaries in that quarter, which Manlius unguardedly admits, and thereby furnishes a weapon against his own doctrines. He must indeed feel himself hard driven for argument, when he complains of me for deriving the present rights of British subjects to trade in the Indian territory, through Frenchmen ; but the absurdity of this complaint becomes manifest, when it is known, that the present title to every foot of land held in Canada, upon grants made prior to 1763, must be derived through the same source.

He also pretends astonishment that I should deny the Royal Prerogative in respect to charters. I am far from contesting the King's just rights, and I am persuaded, set as high a value upon them as Manlius ; but I contend, that the Crown neither did, nor could grant a country which was not its own at the time. My ideas on constitutional rights are founded upon these sterling bases of principle and practice that will not bend to suit the conveniency of any adventuring Projector, whether he shall appear in the guise of a land Jobber, or a dealer in muskrats, and who may think

think that by his previous rank, he is to brow beat his Majesty's other subjects, and set their rights at defiance.

The North West Company, from the commencement, having denied Lord Selkirk's 'usurped claim to the Red River country, and having by themselves or predecessors in trade been in commercial possession of it since the conquest, and the French subjects for near a century before. What is the course that a man of real humanity (not that spurious deceptive species of it, which consists in mere professions contradicted by his practice) would have adopted on the occasion. Assuredly to bring that claim before the legal tribunals, and get a decision thereon, before a life was risked in the support of pretensions so unequivocally untenable and unjust. No, this would not suit this canting pretended philanthropist. Heaven and earth must, forsooth, bend to his purpose, and those who do not chuse quietly to submit to his dictates, at the risk of utter ruin to their long established concerns, must be turned off by force, after being first pillaged.

Having pointed out the futility of his claim to the country in contest, I go on to prove, that Miles McDonnell, who styled himself a governor, never was such; and further, that he was, and is legally incapacitated from becoming one. It is immaterial at present to inquire who authorised this Miles, to disgrace the character of a governor, by affecting to assume that title to cover his depredations. Every body

knows that he was *not a King's Governor*, but all may not know, that were he even a governor by legally authorised proprietary appointment, he could not lawfully execute one act, without the king's approval, nor without first taking the oaths prescribed by law, for governors of plantations and colonies.

These pré-requisites to the legal exercise of power, are expressly required by an act passed in the reign of King William, and in the variety of oaths to be taken by governors, *is that against transubstantiation*, which the impostor Miles, being a staunch Roman Catholic, surely did not take, as I have never heard of his having made a public recantation of that faith.

I ask the wise Manlius, who holds the opinions of English Counsel in such contempt, whether he is ignorant of this part of colonial law, and if he is, what a foundation is this whereon to build his arrogant and self conceited dicta ; or if he be not ignorant of it, what reprobation does not his criminal concealment of facts so important, deserve ; for upon Mr. Miles' being a pretended legally authorized governor, is bottomed the robberies by him, first committed, and since followed up by governor Semple and others of his Lordship's Agents, but which have been so far out done by himself lately at Fort William, that the teats of Cartouche are quite thrown into the back ground.

I can, altho' no lawyer, inform Manlius, that the king himself could not grant a dispensation to a governor, to omit the *oath of transubstantiation*, nor could any

any authority do so, short of a special act of the imperial parliament.

To obviate all doubts, however, upon this subject, I take leave to mention, as a case in proof, that when the government of this province is administered by a counsellor, it is always by the senior protestant one, who must first take the prescribed oaths, and never by a Roman Catholic, altho' he may be senior to the other.

Such is the law, which could not be otherwise, whilst the crown is worn by a Protestant only, and in consequence his representative must be of the same religion.

Yet in the teeth of all these legal impediments to the possibility of Miles being a governor, does he dare to issue out proclamations in that assumed character ; *not so innocent as Sancho Pancho's* ; but to prohibit in 1814 the sending of provisions out of the Red River, and then ~~be~~ seized upon those of the North West Company, by an armed force, thus commencing a system of pillage ; and let it be observed that the provisions so taken, were the produce of trade with independent natives, being the flesh of wild animals killed by them in hunting, and not a particle thereof acquired by the labor or time of a colonist.

The Red River colony originated in avarice, has been prosecuted in deception and fraud, and must end in disgracing the character of a British nobleman. I have

have proved that the country where he placed his colonists, is not within the Hudson's Bay grant ; yet, nevertheless, he set down his people there without leave from the native Indians upon their lands, to which their title had never been extinguished by purchase, and for which he never gave them one farthing, which is rather a strange sample of his philanthropic desire to improve their condition, and copied from American, not British practice,

The king's proclamation of 1763, quoted by Manlius, is conclusively against him. Its express purpose was to prohibit all purchases of Indian lands by other authority than that of government, and to interdict all colonization within Indian territory, but had no reference to any establishment for trade, it being well known, that one of the prevailing motives which induced Great Britain to insist upon the cession of Canada, was to get the fur trade ; consequently, it is a complete absurdity to pretend, that a proclamation could be issued, to prevent that trade from being afterwards prosecuted.

As to Manlius's observations about the injury in point of morals, sustained by persons in that trade, if they have any force, they alike apply to the Hudson's Bay as to the North West trade. It is, however, puerile to enter into discussions about the respective merits of professions or pursuits in life. Individuals in a free country, are left to make their own choice, and it would be novel to argue that manufactures and navigation should be put down or discouraged, because

cause those who are employed in them, do not stand the highest in the scale of morality.

The system of licenses for Indian trade was followed for a time, but being found to be grievously abused, and made a handle of for favoritism, partiality, and oppression, in the distribution, they were abandoned, and all his Majesty's subjects put upon the same footing.

As to his Lordship's tender regard for the health of the Indians, in respect to the use of strong liquors, it is on a par with his respect for their land rights, for be it known, that about the time he and others were canting in London upon that subject, he was by way of taking time by the forelock, proposing to the North West Company, to furnish them with high wines for their trade, which he expected to get from his settlement at Baldoon, on the river Sinclair, which has chiefly been since abandoned, after disgusting his people there, and quarrelling with his agent Mr. Alexander McDonnell.

Were his colony at Red River to take root, the distillation of surplus grain and potatoes (if they ever had any) would be one of his first objects, and thus spirits would be put within the Indian grasp by its direct vicinity. Whereas it is well known, that the immense distance of the *North West* from Montreal, is a physical preservation of the *Indians there* against any inordinate supply or use of spirituous liquors.

I shall conclude for the present with maintaining,
that

that in every instance, his lordship and his people have been the aggressors; and it will astonish the world to learn, that he who has been accusing all the partners of the North West Company, whom he could lay his hands upon, of high treason, felony, and murder, should (some time after he arrested and sent them away in custody as prisoners from Fort William) propose to the clerks of that company, left behind there, to leave all matters of complaint on both sides to arbitration, thereby proving, that either he did not believe a tittle of his accusations, or that for the furtherance of his own private purposes, he was willing to lay aside his duty as a magistrate, and compound those alledged crimes and offences. This precious proposal or document is in his own hand writing, and signed by himself.

There is not upon record, such an instance of the prostitution of public authority to personal interest and private vengeance, as in the proceedings of his Lordship at Fort William, aided by a band of armed desperados, the employment of whom will create amazement, and a corresponding sensation in England.

MERCATOR.

Montreal, 9th Oct. 1816.

For

For the Montreal Herald.

MR. GRAY,

It was not my intention to have occupied any of the columns of your Herald this week, but the palpably gross and infamous falsehoods of the hireling *Manlius*, in that of last week, respecting the conflict at Red River in June last, demands immediate exposure.

Being retained by Lord Selkirk, he apparently considers himself privileged to disregard the truth, if he can thereby serve the cause of his client, by leading astray the public mind. The public, however, should be on their guard against the productions of a concealed venal pen.

Truth will leak out, even under the most artful and studied misrepresentations, as it is evident by *Manlius's* own shewing, that Lord Selkirk's people were the aggressors. He *admits*, that Colin Robertson, on his return with new colonists in September 1815, entered and searched, in virtue of a warrant, the North West post at the Forks, upon the pretext of looking for arms; but he *omits to say* by whose warrant this was done, and also to state that Duncan Ca-

meron was then arrested, and some time kept prisoner.

He also *admits*, that in March 1816, the said North West Post was again assailed and destroyed or pulled down, and Cameron again made prisoner, and sent to England, via Hudson's Bay; but *it is inconvenient for him to add, that a quantity of merchandize, &c was seized, and fifty packs of furs and skins of the North West Company's, then taken there, and at another post, (for two were taken and pillaged in March) were also sent to England by that route, doubtless out of pure regard to the preservation of the North West Company's property. Here, a second time, his Lordship's people are the acknowledged aggressors.*

He farther *admits*, that Mr. Pambrun was sent by Mr. Semple in April 1816, after these aggressions, with instructions to the Hudson's Bay trading Post at Qu'Appelle, but *omits to add, that these instructions were to seize Alexander McDonnell's Post by surprise, or to kidnap him, if possible.—But, fortunately, being on his guard, in consequence of learning what passed below, the Hudson's Bay people there, played the hypocrite, and remained quiet.*

Now is it wonderful, that Alexander McDonnell, after all these warnings, and after the attempts made by Semple to decoy him into his power, should endeavour to strengthen his post, and his means of defence, by getting aid from the other North West Posts, and more especially as he was threatened; and it was made

no secret, that Mr. Semple's plan was to block him up, and prevent all communication with the North West Canoes passing and repassing Lake Winnipeg, which, if effected, would have starved their people into submission, from want of the provisions necessarily reckoned upon.

McDonnell also knew, that to enforce that plan, Semple was placing cannon to command the passage of the Red River, and that Lieut. Holt, a Swedish renegade (for his Lordship is partial, it seems, to renegades of all nations; witness the desperadoes at Fort William, formerly in Bonaparte's service) was preparing a small armed vessel to scour Lake Winnipeg in summer, with which he declared he was to give the *damned Canadians, as he styled them*, such a dressing as they little dreamt of. He also knew, from a declaration of Mr. Semple, that if the North West Company did not give in, such a blow would be struck, as would resound from Athabasca to Montreal; which has literally been verified.

Manlius *also admits*, and Alexander McDonnell knew, that in violation of all precedent, the North West letters and dispatches, brought as usual from the interior, were seized and opened, and their contents unblushingly made a pretext for the seizure. This is confounding cause and effect with a witness. First, rob a man, and then justify it by pretending that discoveries were made by the robbery, which gave reason to suspect that the person robbed intended something similar! But Manlius, purposely leaves you

in the dark upon a material point, viz, that the North West Post had been taken and pillaged before the bearers of the letters arrived, who walked into it without knowing of its capture. Manlius attempts to make it be believed, that this Post was taken and pillaged because they got information that Duncan Cameron and others were taking measures to obtain a force to attack the colonists; whereas the fact is, that Alexander McDonnell acted upon the principle of preparation for self defence, the necessity for which he saw and felt, and the best proof is, that he never meddled with the Hudson's Bay Post or people, until after their apprehended measures, were confirmed by overtacts.

The Packs he took possession of were in number and value far inferior to those previously seized, and carried off by Colin Robertson. They were never concealed, they were made up a part, marked distinctively, and put into a store at Fort William, separate from the North West packs, with which they never were mixed, and no secret made of them.

Can there be a stronger proof of the effrontery of Manlius, than to complain of a pretended offer to an Indian Chief of a bribe, if he would intercept Lord Selkirk's despatches, after Mr. Semple had given the example. But what is worse, he basely and falsely states, that the said Chief was asked to murder the people who carried such dispatches, and further, that he was offered a large quantity of goods if he would lead his nation to make war, and destroy the colony at

Red

Red River. To confute this, it is only necessary to state, that this Chief has become in the Indian style of speaking, so imbecile, as to be considered an old woman ; has no influence in his nation, and if he had, why employ Indians so many hundred miles off, instead of those at hand. The artful malignancy, however, of this base and calumnious accusation, consists in saying, that this Chief had been solicited *by some of the North West Company*. I call upon him to name *those some*, and not basely insinuate, according to his Lordship's practice, that *some* means *all*. It would not have answered his purpose to give names, as it would have afforded a readier clue to the detection of his falsehoods.

Alike unfounded is Manlius' declamatory rant about the unhappy conflict at Red River in June last,

Alexander McDonnell knowing that *Semple's plan* was to starve the North West people, by exclusion from the provisions collected at Qu'Appelle, (for 500 canoe-men would have been at Lake Winipeg in June, wholly dependant thereon for subsistence) he determined upon counteracting *it*, by making an experiment to open a communication with Lake Winipeg, by going clear of Fort Douglas and the colony. Accordingly, about 50 Indians and half breeds went with this intention, and under a positive injunction to keep clear of the Fort and colony, which they did, by making a detour of four miles behind, along the edge of a swamp, which prevented their keeping at a greater distance,

distance, and then came into the usual path by land, at about alike distance below. Whilst going peaceably on, a colonist or two by chance crossed their route, whom they detained, and took along to prevent information being conveyed to the fort. At the place they were to encamp below, other colonists were found fishing, who were also detained upon the same principle, all of whom, after the action, were released without sustaining the smallest personal injury.

Mr. Semples, seeing from a look out, the detour so made, and thenceforth concluding, that if not prevented, all his *plans of starvation into submission* would prove abortive, he, in an evil hour, marched out with 28 men, armed in battle array, and with great parade. He followed the Indians and half breeds, who were much scattered, being unconscious of danger, supposing themselves undiscovered at the Fort; for of the original 50, twenty four had got two leagues below, when they began to encamp, and the remaining 26, seeing themselves pursued by an armed force, turned round, and retrograded to meet them. Manlius by his sophistical misrepresentations of facts, says that Mr. Semple called on 20 men to follow him to meet these people; but the fact is, it was to follow the Indians and Brulés, who had got below his Fort and Colony when discovered, and the meeting which ensued, was from the said Indians, &c. facing about, when so pursued by a following party.

Manlius, by his sophistry, also wishes it to be believed, that these people were above his colony and
Fort,

Fort, and not below. The action, however, took place four miles below, and this circumstance of local situation, combined with the certainty, that no personal injury was offered to any colonist or other person, but those actually in the conflict, or in arms on the way to join the assailants, are damning facts, in proof of Semple's party being the aggressors, which no perjury in his Lordship's people can overturn; for if the Indians and half breeds meant an attack, why did they take such pains to avoid it. The assertion that they were promised as an inducement to attack the colony, the violation of the women of it, is basely false. This needs no other refutation, than that it is not even alleged, that any such violation took place, when all were completely at their mercy.

Exclusive of all these circumstances, there is the actual fact sworn to by some who were in the action, that it was brought on by Semple's violence, in attempting to seize Bouché, who was sent to enquire what the armed party wanted; and when he escaped from Semple's grasp, ordering him (Bouché) to be fired at, which was at first refused to be done, from fear of the consequence, until Semple repeated the order to his party to fire, and abused them as cowards for hesitating. One ball passed close by Bouché's ear, and another went through the blanket of an Indian, who was advancing in an attitude, and with language expressive of friendship; when finding himself thus treacherously assailed, he threw off his blanket, took his gun, and then only the action on the part of the brulés began. One of them was killed, and another wounded;

wounded ; and it is a fact that Cuthbert Grant, whom Manlius, at a distance, so bravely attacks, although fired at by Mr. Semple, made every effort to save him when wounded, and actually was personally endeavouring to assist him, when the Indian above mentioned came up, and in spite of Grant, unhappily shot Semple through the head, calling out, you dog, you have been the cause of all this, and shall not live. The numbers actually engaged, were 28 of Mr. Semple's people, and 26 Indians and Brulés. The other 24 did not join until the conflict was decided,

It unquestionably is a subject of deep regret, and none can deplore it more than I do, that such a distressing event should have happened at all ; and further, that those who were attacked, had not after the victory was decided, made a moderate use of it, but they acted under the impulse of the moment, when their passions were warmed by that attack, which they had not provoked. His Lordship, however, is to be considered as the grand producing cause of all, for which, and other outrages, he will have to answer hereafter at a tribunal where none can deceive, and where neither his arts, nor Manlius's misrepresentation, will avail.

There is this marked difference between his and their conduct, that his acts proceed from cold blooded deliberation in the closet. One would be tempted from Manlius's writings, to suppose that he considered this Peer as a person privileged to commit, at pleasure, every enormity ; and that those he attacks,

are

are not entitled to resist or complain, but ought tamely to submit, like sheep led to the slaughter. What new system of ethics has Manlius (alias *Philo*) discovered, that admits of smoothing down the wholesale robbery at Fort William, into a mere temporary detention of property? If this be law, certainly the *gentlemen of the road*, who may be hereafter tried at the Old Bailey, for occasionally borrowing the purses of travellers, against their consent, should subscribe a piece of plate to Philo Manlius.

The correspondence of Alexander McDonnell with Mr. Semple, may some day be seen by the public, when he will be found to be a very different person from what Manlius represents him. He is brother to the gallant Colonel McDonnell, Aid-de-Camp to General Brock, who fell at Queenston battle, along with that renowned officer.

I call upon Manlius to say, to whom Alexander McDonnell's letter was addressed, from which he pretends to give an extract, and also how he (Manlius) came by it, because if he be silent on this subject, it will prove that it has been garbled and interpolated to suit a purpose. But even as it is, it is obvious that it was bottomed in resistance of the evident intention of his Lordship to destroy the North West Company's trade.

Manlius writes for stage effect, and with this view he introduces one Simon McGillivray, for the mean and indecorous purpose of having a cut at the Honora-

ble

ble William McGillivray, who has smarted under his Lordship's vengeance, in a manner which I shall notice hereafter. Now the fact is (and Manlius or his informants knew it,) that there was no Simon McGillivray, nor any other half-breed of the name of McGillivray, at any time this year, within 3000 miles of Red River.

Yet after this, Manlius talks of his conscience. If he be the person, I suppose he is, I did think he possessed a pure one, and that no inducement could have led him to pervert the truth; but, if he be not deceived into a belief of what he writes, by the misrepresentations of others (which I would fain hope is the case,) I must add, that his once fair conscience, has become seared by his Lordship's gold, and the winning persuasions of his active, and, in other respects, amiable Partner and representative here, who is now acting a part out of the usual female sphere, for which even the fullest extent of allowance for conjugal partiality and attachment, can hardly furnish an adequate apology.—Manlius appears to have warmed himself into a red-hot enthusiast on the occasion; instead of acting as an advocate, and as is usual with enthusiasts of all descriptions, reason, is laid aside, and every thing viewed through a false or distorted medium.

Apropos of Cuthbert Grant. There is an anecdote of his Lordship connected with him, that evinces his great purity and disinterestedness of conduct as a Magistrate. He sent up warrants cut and dry from Montreal to Mr. Semple, against the said Cuthbert and other

other halfbreeds, with instructions to apprehend and send them down prisoners, unless that they had become friendly to the Colony ; thus the crime it seems consists in the side taken, not in the quality of the fact committed.

Before closing the present communication, I shall give a sample of North West humanity, in contradiction to his Lordship's calumnious accusations. A number of Clerks and men engaged at Montreal under his orders, in spring 1815, for the Hudson's Bay Company, by Colin Robertson and John Clark, in all above 100, were sent up in summer, of that year in 14 loaded canoes (the merchandize having been taken in at a depôt on their route) and proceeded into the Athabasca country, where such an unfeeling want of precaution had been used in respect to their subsistence, that before last winter was far advanced, the four different trading parties or posts, into which they had distributed themselves, found it necessary (after a clerk and 17 people had perished for want) to throw themselves upon the humanity of the North West Traders for food : who (forgiving at such a moment of distress the previous conduct of Clark and his people) hospitably received and fed them, whereby the lives of above eighty survivors were preserved ; who probably by his Lordship's instructions, are now entering upon a second campaign of intended destruction of the North West Company's trade.

This happened, too, at the time when his Lordship's agents at the Red River, as before mentioned,

and as will be further seen hereafter, were maturing plans for starving into submission the whole North West people.

I should not be surprised if the North West Company were abused by his Lordship for this act of humanity, as it affords them such a triumph in contradiction to his accusations.

I shall at this time conclude with another decisive proof of the falsehood of Manlius's statement of the Red River battle, that long afterwards, his Lordship as mentioned in my last, proposed to settle every thing by arbitration, which assuredly he would not have done, had he not been convinced, that his people were the aggressors, and that they provoked their own hard fate, on the unhappy occasion.

I, however, have not finally done with his Lordship and his cause, but indulge a lively hope, that I shall be enabled finally to pull off the mask from a wolf in sheep's clothing.

Montreal, 17th Oct. 1816.

MERCATOR.

For

For the Montreal Herald.

MR. GRAY,

The communication from me in your Herald of the 19th inst. having been out of the course that I at first prescribed to myself, I now resume the prosecution of my original intentions.

The subjects hitherto discussed by me, have in substance related

1st. To the Hudson's Bay Company's Commercial and Territorial rights, claimed in virtue of their charter of 1670, whereby they pretended to convey 117,000 square miles of country, (which included the Red River) to Lord Selkirk.

2d. His Lordship's pretended right in virtue of that conveyance, and

3d. The procedure of himself and agents, by him called governors, consequent upon such conveyance.

The question of commercial monopoly has been disposed of by the fact of the non-renewal of the act
of

of parliament which confirmed their charter only for seven years, and thencefrom that monopoly legally ceased.

The question of territorial right, either in the Hudson's Bay Company or his Lordship, to the Red River country, is completely negatived and set at rest, by the authorities I have produced, and by those noticed in the able remarks of a *Commoner and a Briton*, and of *Vindex*, to both of whom I am unknown, and of each of whom I am in like manner ignorant; but when truth is the object of research, there will necessarily be, without a communication of ideas, a great coincidence of sentiment.

It evidently appears from what they and I have written, that the king of Great Britain never had, or pretended to have a right to the Red River, prior to the treaty of peace of 1763. That therefore no title thereto was, or could be conveyed to the Hudson's Bay Company by their charter of 1670, nor by any possibility could a legal grant of it be by them made to Lord Selkirk, as the charter contained a positive exception of all countries possessed by the subjects of any foreign Christian Prince or State; that in consequence *their and his appointment of governors of the Red River Country* was illegal; that such governors, even if they had had a legal territory to govern, never had the legal requisites for such an appointment; and finally if they had possessed such requisites, they never qualified themselves for the discharge of the duties of the office, by taking the necessary oaths.

Having

Having irrefragably established the complete incompetency of the mock governor, Miles McDonnell, I have to add that the like attached to the mock Governor in chief Robert Semple, in respect to his having no legal territory to govern, and to his never having been allowed or approved of by his Majesty ; as also of his never ^{having} taking the oaths of office, to which however, his religion was no impediment, as I believe he was a Protestant.

I have also to add, that any title pretended to be derivable from the circumstance of the Hudson's Bay Company being mentioned in acts of Parliament, Proclamations, or Treaties, is rendered nugatory from this consideration, that nothing is therein said, either in confirmation or abolition of their Charter, nor is there one word explanatory of its territorial limits ; so that the whole remains unaltered upon its original foundation, the same as if such acts, proclamations, or treaties had never existed.

Thus vanishes into air; Lord Selkirk's *high sounding pretensions to the Red River sovereignty and rights of soil* ;—With *these* must go his accusations of high treason, &c. founded upon his alledged title :—And he now appears in his true character of an usurper of the lands of the Natives, not only without title or purchase, but against the king's positive prohibition by proclamation in 1763.—And also as a fell tyrant, presuming upon impunity, from his personal rank, for the oppressions exercised against his inferiors. And thus the acts of himself and the mock governors, instead

instead of being as his advocates would wish to have them believed, mere venal trespasses, are real acts of pillage and robbery, in justification of which, he has not one inch of legal ground to stand upon.

I defy Manlius, and his colleagues, to overturn what I have established, and in the mean time, I call upon them to state, at what time the appointments (as governors) of Mr. Semple and Mr. Miles McDonnell, were confirmed by his Majesty.—And where, and by whom, the oaths, enjoined by common and statute law, to be taken by governors of colonies and plantations, were administered to them; if they will against evidence persist in calling them governors. These are home questions, and not to be got rid of or answered by well-rounded periods, and common place forensic assertions and negations.

My readers must forgive me for recurring to the same subject, because the most material part of the real merits of the matters in dispute between Lord Selkirk and the North West Company, rest upon the validity or invalidity of the territorial grant to his Lordship, and of the appointments of the aforesaid mock governors, with the legality or illegality of their conduct at the Red River in forcibly seizing and pillaging property there, belonging to the North West Company.

I now proceed to give a short history of his Lordship's colonizing and trafficking projects, which have been the source of so much individual distress and

and public discussion, first premising, how superlatively sordid must be the avarice of that man, who could descend from the high rank of a Peer, to endeavour to take the bread out of the mouths of a thousand, who had no other dependance but their industry. And who could deliberately throw into this community, to serve his private views, the firebrand of disunion, discord, and personal animosity, which may out-live his existence.

Many years ago, he came to Canada, through the United States, which he probably visited as Anglican-us says, in order to find out an asylum, in "*precarious times*," to retire to, in case of need: for at that period the democrats asserted that Great Britain was going to ruin. Or more probably he came through those States to be initiated in the mysteries of *land jobbing*, and making of *land pitches*.

Upon arrival at Montreal, he was more than well received, and treated by all engaged in the Indian trade, from whom he sought and obtained information about it, and especially that of the North West.

Every one readily supplied the whole extent of the information he possessed, with that unbounded confidence, which a request from a Peer of the realm, and a Legislator, in respect to commercial subjects, naturally inspired; for none could have dreamt that all would be carefully and treacherously treasured up, to be applied, at a future day, to his own advantage, and the destruction of the means of livelihood of the informants.

He then learnt, without reservation, the strong and the weak points of the North West trade, in respect to competition with the Hudson's Bay Company : and on his return to Great Britain, set about making his discoveries available to his private interest, which is the polar star of all his projects. Accordingly, he and his friends purchased Hudson's Bay stock to such an extent, as to acquire the virtual, if not real management of their concerns, as he flattered them with the hope, if not certainty, of his being able completely to put down their competitors of the North West.

Having found that the Red River country furnished the wild animals from which the subsistence of the North West canoe-men, to and from the interior, was chiefly derived, he consequently considered, that if he could contrive a specious pretext for seizing that country, he could in due time exclude the North West Company from it, and the loss of their general trade must follow. Hence the origin of the system which has since been so pertinaciously prosecuted.

Having in his youth, studied some law, he was fertile in expedients, if not chicanery, and hit upon that of getting the Hudson's Bay Company, to give him a gratuitous grant of 117,000 square miles of country, which however was no great effort of generosity in those to whom it never belonged. Mightily pleased with a project, that was to transfer to them the whole of the North West trade, they did not enquire rigidly into their capacity to grant, as his Lordship, doubtless said, according to his present favorite maxim, when
want

want of legal authority is urged to him against any measure, "*I will take the responsibility upon myself.*" His Majesty's ministers had their hands too full of other more important concerns, to trouble themselves with making enquiry into the merits of this bare faced juggle; for such a knack has his Lordship at deception, that he actually persuaded them to furnish him with cannon, small arms, and ammunition, during the late war, upon the pretext of defending the Hudson's Bay people (for one part of his project was to furnish servants to the Hudson's Bay Company) against the Americans, altho' his Lordship well knew, that generally speaking, there was not an American in arms within two thousand miles of the Red River, or nearer to it at any time during the war, than those who afterwards under General Hull, made free with his Lordship's sheep at Baldoon, many of which the North West Company were instrumental in recovering for him. Or those Americans who at Ste. Mary's destroyed the property of that company out of revenge for their active assistance to Government on all occasions whilst the war lasted.

Miles McDonnell was appointed by his Lordship to govern the first colonists who arrived at the Red River in summer 1812, so ill provided, that had it not been for assistance in provisions and otherwise, the ensuing winter, afforded by the North West Company's people, they would have starved. This nicknamed Governor was so sensible of this that he wrote a letter of thanks, wherein he stated that his people had experienced more kindness from the servants of the

North West than of the Hudson's Bay Company. He loudly pretended a strict neutrality between the two concerns, and that there was no intention of meddling with the trade of either.

This lulled the North West people into a fatal security. Little did they suspect whom they had to deal with, or the extent of his views; for this worthy disciple of his Lordly master, of course, in conformity to instructions, acted exactly the part of the Snake and the Husbandman, for after being warmed into life, by the indiscreet humanity of the North West partners, clerks, and people, he began to unfold himself in Spring, and by degrees as he felt more independent of their aid, instead of the style of a *suppliant and friend*, assumed that of a *haughty master*, taking the name of governor, and requiring every thing to be first brought to him for refusal, as the representative of Lord Selkirk, who as the landlord of the country, he said, had a right to the whole produce of the soil. This began to open the eyes of all, whether traders, Indians, or half-breeds, still however they temporized, altho' a breath at that time, in the way of advice, would have dissipated the treacherous intruders.

I say, forbearance after that became weakness, and encouraged the insults and injustice afterwards experienced.

I would have held openly this language, which could be justified in the sight of God and my country.

‘ Natives

' Natives and proprietors of this soil,—you see that
 ' a band of intruders have arrived (who but for your
 ' and us would have starved) not to trade and admi-
 ' nister to your wants by a fair exchange, but to de-
 ' prive you of that soil (without giving you even any
 ' consideration for it) whereon you drew your first
 ' breath, and wherein lye the bones of your ancestors.
 ' Beware how you admit into your country, a land
 ' jobber, or a cultivator of the soil; or you are un-
 ' done, as an independent people. Look at what has
 ' happened amongst other nations of Indians, by a si-
 ' milar proceeding of the Americans. They drive the
 ' nations from place to place, after seizing their lands
 ' in succession, until they become wanderers without a
 ' country of their own to hunt in, unless out of pity to
 ' their helpless state, some other Indians give them
 ' the use of a part of their hunting grounds, which in
 ' time, share a like fate. This practice, my friends,
 ' is far different from that of your Great Father, the
 ' King, who sanctions no injustice against his red
 ' children. He has expressly prohibited your coun-
 ' try from being encroached upon by colonization,
 ' and has never asked you to cede it to him, nor has a-
 ' ny other the right to purchase it. The man who
 ' sends these people to commence a system of spolia-
 ' tion, is an impostor, who acts in direct opposition to
 ' your Great Father's injunctions, as expressed in his
 ' proclamation of 1763. Therefore send one and all
 ' who are not traders out of your country, but in so
 ' doing, show humanity to those people, who are the
 ' dupes of the great criminal, in this business, who is
 ' not here. Do them no bodily injury, but warn
 ' them

‘ them against returning, else, they will instead of
 ‘ dupes, become principals in the attempt to deceive
 ‘ your Great Father, and to rob you of your hunting
 ‘ grounds and country.’

Instead of holding this language, however, they
 still continued to suffer, until the measure of arrogant
 outrage being full, (as will appear hereafter) Miles,
 and his mock sheriff, were apprehended, and sent
 down in 1815, to answer for their crimes before the
 legal tribunal, when the majority of the colonists dis-
 contented and in despair from Miles’s tyranny, and
 the deceptions and hardships they had been subjected
 to, determined to emancipate themselves from Red Ri-
 ver slavery, and many came to Canada, no doubt aided
 in point of conveyance by the North West Company.

MERCATOR.

Montreal, 30th Oct. 1816.

For

For the Montreal Herald.

MR. GRAY,

In my last I mentioned what I would have said to the *Red River Natives*, had I witnessed the lawless proceedings of Lord Selkirk's agents and colonial intruders ; in which I would have been justified, unless the pretended sovereign, but real tyrant of that River, possesses (as his actions indicate) the right of setting aside natural as well as municipal law ; for by the one I should have appealed to *their aboriginal rights*, and by the other to *the law of the land*, which gave birth to those agents and intruders.

The law of nature gave those natives the right to defend their persons and territory against lawless aggression. The law and practice of Great Britain enabled them also, of right, to say to that self degraded Peer, produce to us the authority of *your Sovereign* and *our Father*, for this claim you make upon our lands, to which *we* have never given consent. *With you we have nothing to do in respect to our soil.* Go hence, or abide the consequences. Our rivers being navigable, are to us, what highways are in your country. No
man

man has a right to shut them up by his own authority to serve his private interest. Nor have you or any of your underlings, a right to prescribe to us with whom *we, a free and independent people*, shall trade or how we shall hunt. If any of us from an excess of forbearance, and a desire to avoid extremities (finding you have interdicted our intercourse with our old friends, by the direct path, in planting great guns upon the banks of our river and highway) should at any time make a circuit, do not suppose it will proceed from cowardice, or from any doubt of our rights; for be assured, that if your people attempt to coerce us into submission to your lawless dictates, *we shall resist, and then not upon us, but upon you, as the aggressor*, must rest the blood which may be shed. The conflict which ensued in consequence of the lawless and arrogant conduct of Mr. Semple, in attacking a number of people, making a circuit round his Fort, to avoid collision, I have already described.

I have called his Lordship's colonists dupes; and well I might! but after the able exposure by Dr. Strachan of his deceptions regarding them, it would be a work of supererogation to recapitulate them here. I must, however, observe that in point of puff and concealment of facts (for both are strong ingredients) his Lordship's prospectus for the Red River settlement (which may be in the moon, from what is said in the body of it) exceeds any thing ever published by those Quacks of notorious memory, Doctors, Brodum and Solomon. For instance, his Lordship says, 'a tract of land of some millions of acres in point

of

' of soil and climate inferior to none of equal extent in
 ' British America, is now to be disposed of, and will
 ' be sold extremely cheap, on account of its situation,
 ' which is remote' (so is the moon) ' from the pre-
 ' sent settlement. If a tract of the same extent and
 ' fertility were offered for sale in Lower Canada and
 ' Nova Scotia, purchasers' (if lunatic.) ' would be ea-
 ' ger to obtain it at an hundred or two hundred
 ' thousand guineas, and at that price would make an
 ' ample profit in the course of a few years by retailing
 it' (at his calculation) &c. &c. again,

" As the lands in question (still not a word about
 " the actual situation) *possess important natural ad-*
 " vantages, over any which now remain unoccupied
 " in Nova Scotia and the adjacent colonies," (what
 colonies does he mean—those adjacent to the Red
 River, or to Nova Scotia. This equivoc is not the
 result of accident, for this calculating Lord never
 acts without previous design), " It cannot be deemed
 " unreasonable if the settlers in general are charged
 " for their lands at the lowest rates, which they would
 " pay in these provinces." Also, " the lowest price
 " of land in the maritime colonies, when sold to ac-
 " tual settlers, is ten shillings per acre, if sold; or if
 " leased in perpetuity, one shilling per acre per an-
 " num."

Now this is false, for in Lower Canada, which is
 surely a maritime colony, land can be had at at s 3d
 per acre, if sold by the Sheriff, or at 2s 6d by private
 bargain, if uncultivated. And if leased in perpetuity,

it can be had at a fourth, or perhaps a tenth of what his Lordship exacts at the Red River, where his rent tariff is in wheat. His goodness, and indulgence also is such, that the arrears which may fall due to him, go on accumulating with interest—for his cardinal maxim is, *to get his Tenants in debt*, to make them industrious, and then *to keep them so*, as independence would make them unsteady and saucy. Another favorite maxim of his is, *to become the depositary of their spare cash*, which in order to keep more surely *for their future benefit*, his agents never had leisure to render any account of.

But the best of the joke for the Noble Projector is, that the 100,000 or 200,000 guineas worth of lands he speaks of in his prospectus, cost him nothing; and therefore, if he seriously believes, or wishes others to believe them worth one or the other sum, (for a difference of 100,000 guineas in his ideas, is as a drop in the bucket) must have humbugged his grantors, the Hudson's Bay Company, and concealed from them the great secret that he now reveals to those dupes, viz. *that the amount of the profits which may arise, seems to baffle imagination*, for his Lordship having come through the States, probably learnt what a *Yankee quit claim* means, viz. a trap laid by two land jobbers or jugglers, *when they have no title to give the appearance of one*, to cheat some ignorant third party.

As his Lordship's Paradise was to be sold "*extremely cheap, on account of its situation, which is remote from the present settlements*, why did not he at once honestly
and

and candidly say, that the lands were at the Red River, above 600 miles distant from Hudson's Bay, by which alone they could be approached from, or have an outlet to the sea, through British territory. That such 600 miles were through shallow and dangerous rapids, with numerous dragging and carrying places. That such bay is open barely six weeks in the year, for external navigation. That the lands are 1500 miles distant from any part of a British province, at present settled, or susceptible of settlement. That the intermediate space is occupied by Indians. That the soil of the Red River lands belongs to Indians, and not to the noble Lord; as also, that the king not only did not recognize, but prohibited the settlement of lands not ceded to him by the natives; and that the expence of transport from this land-of-promise to Great Britain, or to Canada, would exceed the worth of the agricultural produce; and finally, that his Lordship's Red River sovereignty, had no real agricultural outlet, even in prospect, but by the river Mississipi, through the United States, the government of which claimed much, if not all, of *his Lordship's new Canaan*, and by possibility might obtain it; consequently, the colonists would in one shape or other become lost to their country, for the purpose probably of enabling this noble cosmopolite *to hedge and establish in future "precarious times," a place of refuge, or an asylum for himself.*

Had such been fairly explained, his Lordship would have been blameless as to his colonists, although still unjust to the natives. *As it is*, his present conduct is deserving of reprobation in every sense. By what
fatality

fatality is it, that those philanthropists, *par profession*, such as Mr. Wilberforce, have never opened their eyes to, or voices against Indian oppression, whether of native or American growth. Why run to Africa only in search of adventures, when they had so lordly an oppressor nearer home? Very possibly his Lordship is a speculative member of the society for emancipation of the blacks, whilst he is a practical tormentor and enslaver of whites and reds. Such incongruities however are not uncommon.

Manlius says, that one of his Lordship's objects in colonization, was to introduce the English laws into the North West, and in proof of his sincerity, we find that at Red River, in the Indian territory, he began by violating the first law of nature, that of self-preservation, for *by the code of this King Tom*, it seems that no man, when attacked in person or property, ought to defend either; and that his colonists, although kidnapped by the false representations of himself or agents, had (like negroe slaves) no right to change their masters, as probably part of his code was borrowed from Russia, where the boor goes with the soil. For once, at the Red River, his worthy deputies, Miles and Archibald McDonnell, laughed at them, and in derision; said, *you may as well attempt to scale the Moon, as to escape from hence*; which translated into plain English, means, *from his Lordship's colonial bourn no traveller, in the shape of a settler, shall ever return*. Look, say they, *at the cannon we have planted to stop your egress*, and then be wise, and suffer in silence.

After

After this, can it be wondered at, that men born with British feelings, should revolt at such tyrannical insult and injustice, and determine to emancipate themselves, by throwing the engines of their oppression into a river, or lake, for aught I know. Could a free negro, kidnapped into a situation of slavery, be blamed for doing the like with his pretended master's thumb screws and neck yokes. And yet this is the overt act by which the crimes of high treason and felony (of which many are accused by King Tom) are to be established, as having been committed within his sovereignty; for I do not believe it is even seriously alledged, that any of the accused meddled with any thing, but the arms employed to enforce a continuation of their subjugation, under hardships and privations extreme.

The alleged crime of murder is to be supported out of the fact, that his Lordship's people fired upon a number of persons; (whether whites, reds, or half-breeds, is immaterial to the question of law or right) who studiously endeavored to avoid them, but when pursued and attacked, returned the fire.

Another proof of his Lordship's wish to introduce English laws into the North West, is an instruction given by him, or by his suggestion, to the mock Governors, when a number of Irishmen were sent out to Hudson's Bay; which instructions directed them to order that a free use of the shillelah should be made in all their intercourse with the people of the North West Company. This was attempted to be put in practice

at the English river, by seeking a cause of quarrel to try the effect of his Lordship's experiment. But *the people employed in making it* having been foiled by a sturdy North West Clerk, and a handful of honest Canadians, who would not quietly submit to the intended robbery, *they* went back to Mr. House, the Hudson's Bay Clerk, (I beg his pardon, perhaps Governor House) to get fresh instructions. Being in consequence reinforced with a good dose of whiskey, and an Indian fuzil each, he sent them back to the charge, *when* another ineffectual attempt ensued, and a Mr. Johnson, the leader of the Hudson's Bay band, with two or three others, one of whom, a Canadian in the employ of the North-West Company, lost their lives, supposed by the Hudson's Bay people, in the scuffle, confusion, and intermixture of both parties; for the North West Clerk, Mr. Black, behaved with a coolness almost unexampled, and preserved his life by moving round with agility, and presenting his pistols wherever he saw a fuzil pointed at him, but reserving his fire; and his people used the butt ends and barrels of their pieces against their assailants' heads, without discharging them. Next day Mr. House was so conscious of his people being the aggressors, that he wrote to Mr. Black the North West Clerk, a whining apology for their conduct, and (poor Johnson being no more) pretending they had acted contrary to orders. His Lordship has been quite silent about this Shillelah experiment.

Another proof of his great respect for English law, is, that he first lays hold of property not his own, and then

then searches for a pretext to retain it, which he probably learnt at Jedburg, near the place of his nativity, where the ancient practice was said to have prevailed some centuries ago, of hanging a man first, for the sake of saving time, and trying him afterwards at leisure.

This was in the language of those lawless days, called *Jeddart Justice*. I wonder that *Manlius*, instead of attempting to justify the robbery at Fort William, as a mere temporary detention of property, did not hit upon his being a forced Loan, in the Bonaparte stile, as his Lordship's finances probably get low.

Thus the precedents for his Lordship's Red River Code, are from any where, and every where, but England. Indeed his regard for *English Laws* (as exemplified in his practice) resembles nothing so much as Bonaparte's *ci-devant love for the Americans*. It is high time to revert to the proceedings of his Lordship's Satellites at Red River.

Miles, during winter 1812—13 being there first, was (as before mentioned) with himself and settlers, kept from starving by North West humanity. He was then as meek as a lamb (of the breed of Kirke's, in James the 2d's time) but next spring, he began to show the cloven foot, by assuming the title of a governor, and requiring the pre-emption of all produce of his great Lord's lands, whether caught by the native Lords of the soil, or raised by the intruders.

In

In winter 1813-14, the colony had had an accession of strength by families who landed at Churchill Fort the season before, too late to get on by water, even to York Fort. They were in a state even more miserable than those of the former year.

In that winter, intelligence reached Red River, that the Americans had taken our fleet upon Lake Erie, as also Detroit in Sept. 1813; consequently as the North West Company's resources in provisions or supplies from that quarter, would next spring probably be cut off, this was the time to strike the finishing blow against that Company's trade, according to his Lordship's plan and instructions. From this moment the veil was laid aside. The North West Clerks were attempted to be inveigled from the interest of their employers, by representing them as ruined by the war, which succeeded with a wretch named Pritchard, whose life was saved by the exertions of a North West engag  , in the conflict of June 1816 Miles held out to the North West men, that resistance to his power was useless, as on account of the war in Canada, they need expect no aid or relief.

He laid hold of provisions sending to the North West Posts. He threatened the poor ignorant servants of that Company, and made some of them swear to remain inactive in any contest which might occur, and others he swore to divulge, where their employers' property had been secreted from his grasp. At one time he denied his dependence upon the government of Canada, at another he summoned the North West Company's people before him, as a Magistrate of the Indian territory

ritory, appointed in Canada, just as suited his caprice, or his purpose. At other times, he would threaten to condemn and put to death any one who should resist his authority.

In January 1814, he issued his famous or infamous Proclamation for an Embargo of provisions. In May, he notified all the North West people to abandon their trading posts and his Lordship's territory. In spring 1814, he erected batteries on the Red River, and fired upon, *and brought too* boats and canoes of the North West Company, and took out of them the property they contained, which he secured in his Lordship's stores. At length Miles, in the plenitude of his power, and "hour of his extreme insolence," appointed one Spencer, a Hudson's Bay Clerk, to be a mock-Sheriff, and issued a warrant authorizing and commanding him to seize the North West Post at the river La Sourie, where a large supply of provisions had been collected. This he did by an armed force, first cutting down the pickets, and then seizing the whole of the provisions so collected, which were carried off for the use of the colonists. Part were afterwards given back, when a superior force of North West people arrived at Lake Winipeg, who depended upon them for subsistence, and would not have submitted to starvation, but this partial restoration does not alter the complexion of the case, or excuse the original robbery; it is however a manifest proof of the forbearance of the North West Company, for nothing short of a restitution of the whole should have satisfied them. The not firing upon the mock Sheriff's party when cutting

ting down the pickets, would be another proof of extreme forbearance, were it not, that when the honest Canadians inside, called for arms to defend the property of their employers, the traitor Pritchard (previously gained over) handed them fusils without ammunition. This fellow afterwards went off from Montreal into Lord Selkirk's service, after many previous protestations of fidelity and attachment to his former employers.

Miles McDonnell's conduct thus becoming so outrageously insupportable from repeated robberies, warrants were issued for the arrest of his Sheriff and of himself, who were both brought down to Montreal, the year following, to stand trial for their felonies; but his Lordship, with his accustomed contempt of the law of the land, took them up to Fort William last spring, and has kept them there, or sent them into the interior in his service, altho' under recognizances to appear at the criminal term here in September last.

MERCATOR.

Montreal, 7th November, 1816.

FOR

For the Montreal Herald.

MR. GRAY,

My last communication closed with the feats of the impostor governor Miles and his sheriff, and their consequent arrest, and conveyance to Lower Canada, to answer for their crimes. I asserted at the outset, that Lord Selkirk—his pretended governors—agents, and people, were on all occasions the aggressors against the N. W. Company, besides his being totally devoid of legal right to the territory usurped by him; and the truth of this assertion, and that want of legal right have been established in a manner indisputable; nor has any serious answer, or document been produced in support of his Lordship's usurpation, or of his colonists being meddled with, anterior to his own and their violent aggressions.—For in winter 1812-13, Miles and his people were kept from starving by the North West Company's people. In winter 1813-14, he basely attacked his benefactors by proclamation, by capture of their forts, otherwise trading posts, or factories, and plundering them of provisions; and in Spring 1814, by notifying all the North West traders to quit their

posts,

posts, and depart from his Lordship's usurped territory.

All these facts let it be remembered, (and it is a most decisive one in confutation of the plan alledged to have been concerted against his Lordship's colony) took place above two years before the pretended colony was broken up by the act of the colonists themselves, impatient at the slavery and privations they underwent, under his Lordship's gross deceptions; but I again contend, that it was no colony, and never had any legal attribute to constitute it one.

In 1815, Miles and his sheriff, (the latter somewhat earlier in the year) were sent down for trial. In October 1815, Colin Robertson appeared on the stage, and arresting Duncan Cameron at Red River, with or without a warrant, soon set him at liberty; but in March 1816, the same Robertson and Mr. Semple, another new actor nicknamed governor in chief, surprised Cameron's post a second time, arrested and kept him prisoner, turned the North West people out of the fort—laid hold of all the merchandize, provisions and furs, it contained, to a large amount; and about ^{the} same time, played the same game at another North West post in that country. The principal post after being so surprised, taken and plundered, they demolished, and carried off the materials to strengthen Fort Douglas.

They, about ^{the} same time, (March, 1816) after taking the posts, seized the North West express, with all
the

the letters from the interior, which they opened and read, and kept such part as their caprice dictated, pretending according to the *Jeddart Code*, that they had thereby got proof to authorise the act, which they had previously committed.

They then intimated without disguise, the determination to blockade Alexander McDonnell's post of Qu'appelle, (after first endeavouring to surprise it and kidnap him) and also to cut off his communication with lake Winipeg in Spring 1816, so as to starve 500 of the North West Company's people, who annually pass there in June. An armed vessel prepared by Holt, the Swedish renegado, was to co-operate, and strike a blow to resound from Athabaska to Montreal, as before mentioned.

In May 1816, when the Red River opened, Robertson *went off* with 50 plundered packs, and the other booty to Hudson's Bay, to make sure of that spoil, before it could be retaken. The Brulés *seeing this*, and not before, (although the robberies of Robertson and Semple were in March preceding) laid hold of the packs, (which were worthless in comparison of value to those taken by Robertson) so ostentatiously spoken of by Manlius, as being found at Fort William, under a distinct mark, as if their original seizure had preceded the capture of the North West posts and packs.

After all these preparatory overt-acts of aggression and robbery, which conveyed admonitions of the intended sequel, not to be mistaken, was Alexander McDonnell

McDonnell to sit with his arms across, and patiently wait until the knife of the noble bandit's myrmidons, should be put to his own throat? and also until 500 of the people of his concern, should in systematic conformity to that sequel, undergo a regular and absolute starvation, and all the returns of the year from the interior be carried off to Hudson's Bay as intended? or was he to use the means which the laws of God and his Country authorised him to resort to, for the preservation of the lives and property confided to his care, or dependent upon his decision at such a crisis? In my mind his only blame is too much delay and forbearance, for as the aggression of Lord Selkirk's worthy Lieutenants, began in October, and were afterwards resumed in March with a hundred fold violence, not a day should have been lost to apply counteraction. Yet instead of immediate retaliation, in the application of which, he would have been completely justifiable, he contented himself with demanding by letter the restoration of the forts, and property plundered. This produced a paper correspondence, which does him credit, and lays open the whole soul of Semple, who (as if in ridicule by anticipation of Manlius's character of him) acts the part of a bravo, and talks of his power to inflict signal chastisement, having a force, whom he found it very difficult to restrain, instead of requiring excitement, or, in other words *so full were they of fight.*

This had no other effect (for McDonnell was not a man to be frightened by gasconade) than to evince the necessity of losing *no further time in opening a communication*

cation with the N.W. men expected at Lake Winnipeg. Accordingly, to avoid collision, he resolved upon sending an escort with some provisions by a circuitous route, and he gave them positive orders (of which the proof is ample) to avoid the fort and colony as far as possible. This was construed by Semple, and his valiant men of war, into weakness, and he and they in consequence, felt bolder in the determination to prevent all egress by water or land with provisions; because he well knew that if this experiment succeeded, other escorts would follow, and the starvation system be rendered abortive, as also the surrender of the whole of the North West packs from the interior, which were to be exacted; or if refused, to be delivered up, were to be laid hold of by force; for at all events, the seizure of the packs was to be effected, such being King Tom's royal will and pleasure, and such being the blow as above mentioned, which was to resound far and near.

McDonnell erred in not going himself with all his force by the usual water route, and if resisted, to oppose force, and open the way. His error, however, was on the side of humanity, and is therefore praiseworthy, but such was lost upon those he had to deal with. The party thus sent by the circuitous route, were as before mentioned, pursued and attacked. They rightfully resisted, and being victorious, are now branded with the appellation of murderers by Manlius, the advocate of a lordly usurper, tyrant, and hirer of cut-throats, who in his closet, in cold blood, planned the starvation to death of 500 persons in the employ

ploy of ~~the~~^{the N.W.} company, whose people were at that moment, from humanity, saving from a similar death 80 of his lordship's wretched and starving Canadians, whom he is now employing, in as far as he is able, to destroy those who saved their lives.

The fact of aggression by Semple and his people, consisting of 28, against 26 Indians and brulés, (for no more were in the action) is proved beyond doubt, by direct testimony, and by circumstantial evidence, if possible stronger. In addition to this, there is the traitor Pritchard's own testimony, who declared, in the hearing of an officer of Meuron's regiment, that he could not say who fired first. This is conclusive in itself, for if he had had the most slender belief that the Brulés were the aggressors, no doubts upon the subject would have been expressed by such a character.— And yet the hireling Manlius is so enraged at the failure of his noble client's exterminating plans, that he commits his moral and legal character to the winds, and stakes them upon the truth of a most audacious and atrocious assertion made by him, as he says, “ according to the relation of one of the persons concerned in the massacre, who is now in prison in “ Montréal, McDonnell's plan was first to make “ as many of the colonists prisoners as possible, and “ then to drive the rest into the fort—to encompass “ the fort after this should be done, and to shoot every person who should leave it, either to procure “ water or obtain food.” It would be too tedious to go on with the quotation, but I assert that this and the *whole substance* of Manlius's last essay in the Herald

ald of the 9th inst. are wicked, malicious, and intentional falsehoods, without other foundation than in the fertile brain of the advocate who pronounced *that substance* in a speech at the time of the discussion of the writ of Habeas Corpus, in September last, upon the question for bailing his Lordship's prisoners (which speech the orator modestly considered to be equal to Cicero's oration against Verres) and is now borrowed by Manlius for fresh stage effect (for which probably the orator will not thank him, as words and writing differ most essentially, because *verba volent, sed scripta manent*) to rise up in judgement against the correctness of the law opinions therein supported by him, with this marked difference, however, that Governor Miles has disappeared from the *dramatis personæ*; his dignity having been broken in upon by my unlucky proof of his gubernatorial incapacity, and consequent imposture. This omission augurs at least some symptoms of shame, for arrogant and insupportable impositions upon the public, as to Mr. Miles upon all former occasions. Alas, how are the mighty fallen ! ! !

The above assertion made by me, of the daring falsehoods published by Manlius, is founded upon the fact that the "person in prison" alluded to, never said, or authorised to be said, what is so barefacedly attempted to be palmed upon him; and that being informed of the infamous forgery, he has unequivocally disavowed and expressed his astonishment at it. What is to be thought of such men, and such a cause, when such mean and desperate artifices as these, and such as follow, are resorted to, for their support.

K

Surely

Surely good men, in a good cause, would abhor such proceedings.

The systematic arts and misrepresentations used, and pains taken to deceive others by his Lordship, and his advocates, his dupes and minions, are past all precedent, in a *British country*, and resemble only those practised during the *French Revolution*. The clergy, the nuns, and almost every person supposed to possess influence, and thereby likely (if they embarked in the cause) to be able to prejudice the minds of the ignorant multitude, have been assailed by artful tales, told or written to them; nay to such a pitch has this been carried, that even tavern keepers, grog sellers, and pedlars, male and female, have been applied to, by one or other high in his lordship's confidence, or zealous in his cause, the names of some of whom, would astonish the world.

Notwithstanding all these intrigues, it is a triumphant consolation to the North West Company, that so little effect have they had upon the Voyageurs, who know them by experience, that at any time they can hire ten to his Lordship's one; and the reason is, that what they promise they perform; whereas when his day of payment comes, there is always some chicanery. Even this year, people hired for him to go to Kaministiquia, and return, were kept all summer prowling about the Lakes Huron and Superior, or at Fort William, at hard labour, and sent down in the fall without a sous additional allowance for the time they were kept beyond that implied by the spirit of
their

their agreement, with this pretended pattern of humanity and fair dealing, but of real selfishness and cupidity.

The shooting story is so ridiculous as to carry with it its own confutation. If Manlius was from Ireland, I should consider it a bull, but its intentional malignancy proves it to be of different origin, for the natives of that country being open and kind hearted, their bulls are witty, but harmless absurdities. What man in his senses would give, or expect others to believe to be given, an order to drive people into a fort, for the purpose of shooting them afterwards, when they might happen to come out. Surely any man capable of so doing, would make sure work, and begin by shooting.

McDonell's countryman Kirpatrick acted very differently with the traitor *Cummin*, who betrayed his *Sovereign Robert Bruce*, for on plunging the dagger into the traitor, he exclaimed, *I mak sicker*. I quote this to shew the absurdity of supposing, that a man intent on the death of his enemy, would postpone it, when in his power, to an indefinite time.

But really, Manlius' mind has become so perverted, since he stept out of the legitimate and manly path of his profession, to become a Grub-street writer for hire, that he seems incapable of distinguishing right from wrong, cause from effect; whether an act done now, may not be justified by something to be done or found out hereafter; or whether all difficulties may

not be overcome, by this simple declaration of his lordly employer, accompanied by a sardonic grin upon his countenance, "*I will take the responsibility upon myself.*"

The shooting story reminds me of a quack doctor, (not a quack land-jobber) who sold to his gaping auditors *powders to kill fleas*. One fellow had the impudence to ask him, how the powder was to be applied; the doctor replied, you have only to catch them, and throw into their eyes the least particle of the powder, and there is an end of them. The fellow rejoined, why Doctor, we might as well in that case kill the fleas ourselves, without the aid of your powders. To this the quack gravely answered, *either way will do*; so will, doubtless, Manlius say, if questioned about his shooting story, *whether the colonists had been shot before they were driven into the fort, or after they came accidentally out, it could be demonstrable by my plan of fabricated orders, to have been really to them the same thing*. Who could get over such pithy reasoning as this *from the pen of Manlius*.

Happily, however, the fabricated orders as alleged by him to have been given by McDonnell, carry intrinsic evidence of falsehood, for in no instance were such complied with. Instead of the taking colonists prisoners, and sending them to Portage des Prairies, and driving the rest into the fort, to be shot as a pastime, and violating the females, we find the escort with provisions going quietly on, as far from the fort and colony as possible, and when one or two colonists by accident crossed

crossed their path, carying them down with them to the intended place of encampment below, towards Lake Winipeg, (to prevent intelligence of their route being conveyed to the fort,) instead of sending them up to Portage des Prairies. That in this harmless circuit, not thinking of driving in the colonists, they were furiously pursued and attacked by Semple, as before mentioned. And finally that they neither shot, nor personally injured any but those who made the wanton attack upon them. As to the violation of the females, even Manlius speaks of it as a matter of apprehension, not of fact. He probably had in his recollection when coning that paragraph about rape, the story of the old woman who had a dismal tale mentioned to her of the possible excesses in that way, which might ensue, if the besieged town in which she was, should be taken by storm.

Can any person seriously believe the fabricated speech of Mr. McLeod. If there be such a one, I shall not attempt to convert him otherwise than by a direct negative. I, however, cannot pass over the base malignancy of the intention of the framers of it, which is to lead their hearers or readers (it having been both spoken and published by one or other of them) into the belief that the clothing was sent as a reward to the brulés for what they had done in the battle.—Now the fact is, that McLeod arrived there some days after it happened, and therefore without the gift of inspiration, could not have prepared clothing upon the presumption of an act, that arose out of Semple's previous unprovoked aggression. Clothing had
been

been long annually sent forward for these people, and the other part afterwards found at Fort William, had been also previously provided, and alike unconnected with the unhappy event.

Mr. McLeod certainly went with a party armed, but as certainly did so, in consequence of the robberies perpetrated by Semple and Robertson in March, and it being understood, that part of the plan was to stop the provisions from Red River, and also to seize the packs from the interior, that were in such case to be sent to Hudson's Bay ; all which surely justified every possible precaution to prevent the accomplishment of such nefarious purposes.

Really one would suppose from the arrogance of his Lordship, his advocates and satellites, that all his opponents were to prostrate themselves before him, and become like worms to be trod upon, without the right or power of resistance ; and be crushed to death like the people who, in India, fall down before the idol of Jaggernaut.

Much is said about exultation, after the fate of the battle at Red River was known. If signs of satisfaction were expressed at the defeat of the deep laid plan of his Lordship to starve to death 500 people, and to seize and to carry off 1200 valuable packs of furs, would it be either wonderful or reprehensible, especially when that defeat arose from the wickedness and folly of his Lordship's people, in being the wanton aggressors on the occasion. But little did they dream, that

that the buccaneering Lord, had also planned to pounce like a tyger upon 600 of the best of those packs, afterwards at Fort William.

Manlius, or his colleague, for I am uncertain who is the author of the sentiment, says, "could a character so extravagantly, and daringly base, as to make without foundation, a statement like that *which we have given*," (this is a proof of joint manufacture) "be supposed to exist? the supposition would be folly." After the "relation" palmed upon the *person in prison without foundation*, I shall leave to all honest men to judge upon whom falls the baseness and folly of so doing, when *that person* can so easily be resorted to, and contradict the base fabrication.

Manlius also falsely asserts, that I first resorted to the Press. His memory is probably conveniently treacherous, else he would recollect the elaborate essays of his lordly client, published in the Herald, long before I began, under the signature of his Cat's-Paw Archibald McDonald: for all do Archy the justice to believe that he is incapable of writing three sentences for the press; as also that in those erudite essays, *certain law opinions* were introduced, by way of *knock-you-down arguments*. Whereas the fact is, that I first wrote merely to counteract *those opinions*, by publishing *others more correct and able*, which I happened to have access to, and at the time had no intention of going further, had it not been for *your base misrepresentations*, which began with the assertion of a *direct falsehood*,

falsehood, in which you were immediately detected, and dared to the proof, but *which* you have sneaked from producing; and which have been followed up by you with increased audacity and disregard of truth. Be however assured of this, that your reputation has thereby suffered both in a moral and professional point of view, altho' at the outset you so arrogantly prognosticated a loss of character to me, if I persisted.

Hard run must you be for argument, to produce as a proof of the existence of his Lordship's colonial rights, the act of the imperial parliament of 15th April 1813, which now lies before me, and in which the words *Colony, or Earl of Selkirk*, are not to be found; but I find these; 'be it therefore enacted, that from and after the passing of this act, nothing in the said recited act contained (43 George 3. chap 36) shall extend, or be deemed or construed to extend to any ship or vessel in the service of the Governor and company of adventurers of England, trading in Hudson's Bay, provided such ship or vessel shall not carry more than twenty passengers, besides the crew.' It then goes on to prescribe regulations about licences and otherwise; and then the succeeding and last clause of the act concludes thus, 'and upon such licence being granted, it shall and may be lawful for the said governor and company, to put on board such ship or vessel, and to convey therein such passengers to the settlements of the said governor and company, adjoining to Hudson's Bay, without being subject to the regulations of the said recited act.'

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The allusion by you to this act is very *mal à propos* for your cause, as the words *adjoining to Hudson's Bay* completely cut up by the roots his Lordship's usurped claim of territory, which is clearly *very remote therefrom*, instead of *so adjoining*. Thus have you furnished an addition to the superabundance of proof already brought forward, of the nullity of his Lordship's title.

As you, Manlius, have deigned to answer a small part of one of the queries put to you by me, viz. that the letter of Alexander McDonnell, which you quoted in a former communication was addressed "to a Brother-in-law of the Honorable William McGillivray." I ask you, good Sir, to go on a little farther, and make the answer complete, by informing me from whom you obtained it; as also whether it was the original letter sent to the said brother-in-law, or a copy or rough draft of it, for I need hardly inform so profound a lawyer as you, that it makes a most essential difference as to the weight of evidence deducible in such a case. As you doubtless read history, you will probably recollect that Mary, Queen of Scots, was condemned to death, and suffered it, upon a conviction made upon the testimony of pretended copies or drafts of letters of hers; and that such a proceeding has been branded by all sound historians as no proof whatever, but a mere colour for judicial murder.

When in the humour of perfecting the above mentioned answer, I request you will have the goodness also to publish the answer you asserted to have been given

given by the agents of the North West Company, wherein "they observed, that Lord Selkirk, or the "Hudson's Bay Company might feel interested in "having those claims finally settled; but that the "North West Company were not so interested, and "therefore the *fine qua non* was inadmissible."

And further, you will be graciously pleased to inform the public, when Governors Semple and MacDonell were confirmed by the King, and when and where they were sworn in as Governors; as also when the Indians ceded the Red River lands to His Majesty, or when his Lordship obtained the Royal licence for purchasing them; and finally you will (if you please) give a good reason why the Noble Peer himself, a law maker, did not even out of humanity, resort to the arm of the law, through his Majesty's courts, in support of his pretended rights, instead of trusting to his own lawless arm to overwhelm those who had been in possession by themselves or predecessors in business, of the country in contest, before he had existence.

I hope you will excuse me for calling upon you a second time for such answers, because upon these essential points, being satisfactorily established, may depend whether his Lordship be not a *premeditated robber*.

The feats of the noble buccaneer, and his band, I reserve for next week, which will close my communications.

MERCATOR.

Montreal, 15th Nov. 1816.

For

For the Montreal Herald.

MR. GRAY,

In my last, I brought the allegations of Lord Selkirk, and his advocates *to the test of dates*, which are *stubborn facts* not to be overthrown, but *which* they have studiously avoided noticing, well knowing *they would, if known*, be destructive of their cause. Let them deny those dates if they dare.—Such must, or ought to convince all who honestly look after the truth—even Manlius, if he be of that description.

It is high time to proceed to that climax of freebooting exhibited by his Lordship and assistants, upon the stage at Fort William in Upper Canada, where the *Dramatis Personæ* supported their respective parts to admiration, and much to their own comfort and satisfaction; being thereby enabled to live and fatten in the true Bonaparte style, upon the spoils of the enemy, their own supplies being nearly exhausted.

The end, however, may prove more tragical to some
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of the actors, than they or their advocates are aware of, unless the British constitution be now, an empty name, to be practically set at nought by any Peer, who may have the hardihood to act as if it was a piece of useless trumpery; and unless an Englishman's house may be entered by an armed ruffian band against law, his property laid hold of, and kept, and his servants turned out (himself being previously arrested, and sent off by the warrant of an interested accuser) in contempt and defiance of all the established authorities of his country.

The great and sovereign Lord of the dominion, colony, or territory of Assiniboia, alias Red River, yclep'd in common parlance, Thos. Douglas, Earl of Selkirk, hired and paid a band of retainers to till land, or do any desperate work that he might find occasion to direct, as by their notarial engagements, reference thereunto being had, will more fully appear; for be it known, that these disciples of Bonaparte so hired, are made to stipulate to serve as a militia.

I know of no English precedent for such a stipulation, and it will be difficult for an Englishman to conceive how a militia can be composed of foreigners engaged 2000 miles out of the country wherein they were to serve; but still more difficult to divine, how such a band can be *legally applied*, not to defence, but to *the attack, pillage, and retention of the property of persons situate 800 miles from the country wherein they were to settle*. Yet such is the fact, that instead of waiting to reach that country, they have been employed to attack the

the persons and property of His Majesty's subjects at Fort William, far without the bounds of his pretended territory ; for no other reason more legal, than that their Lord has so ordered it ; just as his ancestors would have done on the borders, some centuries ago, when the *Jeddart code was acted upon*, with this difference, that in those days the retainers were of native, not of foreign growth.

His Lordship, strange to say, in the present day, has actually so engaged and employed a band of 120 to 130 or more, chiefly foreign discharged soldiers, many of them ci-devant deserters from Bonaparte's army. These he officered, armed, and provided regularly, with great guns, fuzils, and bayonets, ammunition of all kinds, a furnace to heat shot, drums, and bugles, and the King's uniform, &c. &c.

Before, or after being so equipped, he considered one thing material to his purpose wanting. It was desirable to have a few really in the King's service, and entitled to wear his uniform, to give the appearance of governmental authority to his proceedings.— Being an adept in the art of deception, of which I have already given several instances ; he applied for a military party to protect his precious person against assassination by the Red River Indians (whom he was conscious of having treated with extreme injustice, although his minions would have it be believed, that the Indians know so little of their rights and interests, as to be ready to die with grief, at being deprived of their land despoiler ;) which was in an ungarded moment

ment acceded to ; in the first instance, to the extent of a subaltern with a serjeant's party, but, at last reduced to a serjeant and six privates, who received orders to restrict themselves entirely to the guard of his Lordship's person against the Red River Indians, as by himself requested ; and on no account to inter-meddle in any difficulty between him and other traders. This guard he has, in disregard of the conditions whereon it was expressly given, applied to the imprisonment of his Majestys subjects, and spoliation of their property.

The abovesaid band being fully equipped, left La Chine in May last, by York in Upper Canada : and his Lordship followed in June by the same route, in the full determination of following up the plan of starvation, and plunder, before mentioned ; which had begun to be developed at the Red River, in March preceding, according to his preconcerted instructions. That his Lordship left Montreal with such determination, there cannot be a particle of doubt ; that is to say, to lay hold of the Depot at Fort William and all its contents, which, however, he expected to find would consist of the chief part of the outfit of the year for the interior (of this, however, from the great length of the passage upwards of his band, he was in a considerable degree disappointed) besides any packs which might escape the clutches of his buccaneering lieutenants at the Red River.

This determination was taken, before the battle at the Red River happened, and long before it was known ;

known to him ; (although afterwards lugged in as an excuse for the attack of fort William) and is susceptible of direct proof, if my information be correct ; that he wrote exultingly to a gentleman at Quebec, just before he left Montreal, "*that when he arrived at Fort William, the North West. Company would probably see reason to discover, that a boundary between the two companies was not so inadmissible a proposition as they had considered it.*"—I quote this as to substance, not as to precise words ; and have to add, that the inadmissibility on their part, resulted from his Lordship (besides other objectionable conditions) always requiring the admission of his, and the Hudson's Bay Company's pretended rights.

The above information being had at second hand, I cannot (without permission) divulge the name of the person to whom his Lordship is said to have so written.

The army of buccaneers equipped as above, proceeded on towards Fort William, and at St. Mary's or before, they learnt the discomfiture of the Red River part of the plan of operations ; his Lordship then became furious, and resolved to place all his future proceedings (although long predetermined) to account of that unforeseen posterior misfortune to Mr Semple and people, of his own creation. The whole pack of yelpers were let loose, and instructed to proclaim that battle as a deliberate and horrid murder ; and to keep secret the fact, that his people provoked and began it. They were farther instructed to endeavor to terrify or suborn, where occasion served ; any one who had a knowledge of facts leading to it, into

into an accusation of the North West people and the *brulés*, as the assailants. This system of terror and subornation, was acted upon, both at fort William and Montreal.

On the arrival of his Lordship and retainers at fort William, the 12th of August last, they encamped on the opposite side of the river Kaministiquia, half a mile above. Next day, one MacNabb, was sent across, and asking to see Mr. McGillivray, was conducted to his apartment, where he arrested him upon a warrant issued by Lord Selkirk. Mr. McGillivray without making any opposition, or directing others to do so, quietly submitted, and went with M'Nabb, taking Dr. McLoughlin, and Kenneth MacKenzie, with him to his Lordship, to offer them as his bail.

Upon being admitted into the presence of that Peer, whose aspect is *dignity personified, and must always command involuntary respect*, they too were arrested. After this, on the same day, a body of about 50 armed men, under Captain D'Orsennons, and Lieutenant Fauche, crossed over with their guns and bayonets, and in uniform; when at the sound of the bugle, and with shouts, more terrific than savages, they rushed on, and entered the fort without the exhibition of any warrant, or any lawful pretext for so doing, as the criminal warrant before produced, had been executed, without a shadow of resistance. Upon the entrance of this band of desperadoes, the other North West partners, were all arrested in copartnership; and one of them, Mr. John MacDonald, brutally treated by D'Orsennons. Indeed, the men afterwards made no
secret,

secret, that had there been any resistance, it was intended to put all in the fort to *death*; military possession was now taken of that *Depôt*, and all the property therein, ; *probably worth in all, the post inclusive, £100,000*; which, with his Lordship's usual duplicity and hypocrisy, was said to be net with a view to interrupt the trade, or to meddle with merchandize or packs, giving out, *that all these he despised, being far beneath his consideration*. He acted thus at the commencement, to impose upon the clerks and people, but soon began to unfold his ultimate views to stop all trade, and to detain every thing for his own use — A system of terror was now embraced. — General warrants of search, most strange to say, were issued; not for criminals, but for packs alledged to have been carried off from some of the Hudson's Bay posts, not said by whom, packs never concealed, and the history of them before explained. Besides packs, they were by the warrant ordered to search for arms, ammunition, *and papers*, not even expressing the kind of papers. Under this precious warrant, books, papers, and letters were seized; pryed into, read, and endeavoured to be applied to his Lordship's purposes — Outfits to the interior were stopt, as also the descent of furs to Montreal. The fusils and powder, and several other articles, which are as much the lawful, and indispensable implements of Indian trade, as ploughs and harrows are of agriculture, were feloniously carried off. And the whole property placed in a state of requisition, at the pleasure of his Lordship, upon the peril of the clerks of the North West Company, who were put in fear of their lives, more decidedly, than

persons robbed on Black Heath can be ; as such expect to meet in the robbers with the feelings of countrymen ; whereas in the present case, at any symptom of reluctance, or resistance in a clerk to any of his Lordship's requisitions, D'Orsenons or Matthey, two officers late of Meuron's regiment, interposed and intimated, that if such clerk had any regard for his own life, or the property of his employers, *he should refuse nothing*, because many of the people under their orders *were deserters from Bonaparte's army in Spain, and had been familiarized with pillage and murder.* These were, it must be admitted, arguments not easy to be confuted or resisted. *What will honest John Bull say to such proceedings, when directed by a Peer at the head of armed foreigners against Britons ?* They must meet with the indignation and execration of every man, who values legal right and detests violence.

Mr. McGillivray, and all the North West partners, nine in number, were sent off from Fort William, on the 18th August, by his Lordship's orders, in three canoes, improperly manned and equipped under a military escort, commanded by Lieutenant Fauche, in the degrading capacity of a constable or bailiff. In coming along lake Superior, a gale arose, and Fauche although forewarned of the danger, insisted upon proceeding. The consequence was, that Kenneth McKenzie, a North West agent and partner, and eight other persons were drowned. His Lordship was the original, and Fauche the proximate cause of this, which had the business been reversed, would by him have been called a premeditated murder. It is not improbable

probable, that his Lordship inwardly rejoiced at the accident. In proof of his want of delicate feeling, and of his revengeful disposition, I have to state, that he refused to let Mr. McGillivray's servant accompany him down, upon pretext that he must be kept to be examined, although five days had elapsed after the arrest of his master, before his departure. When brought afterwards to be examined, his Lordship allowed his doughty Captain D'orsennons, to brow beat the servant, and threaten him with irons, because he refused to obey any orders but his masters.

After the partners were sent away as criminals, upon trumped up accusations of high treason, larceny, and conspiracy, clerks and men were tampered with. When any of the former were stubborn, they were packed off under a subpœna, to go down and give evidence. The men were threatened, or enticed to quit the service of their employers; others sent to jail, brought back, imprisoned again, and so on alternately, until they were frightened into some story about their masters, or liberated as incorrigibly faithful. Whilst so bandied about, it was studiously inculcated upon them, that his Lordship possessed the power of trying them as criminals, or releasing them as he saw fit, accordingly as they concealed or spoke the truth; in other words as they would not, or would speak, according to his wishes. Many men hired to bring down packs were kept back, and insinuations used to winterers that his Lordship acted by secret authority, and could annul their agreements with the North West Company; that they must enter his service,
and

and when they still refused, many were commanded in the King's name to labor for him. The Spanish Inquisition furnishes nothing more tyrannical than these acts, excepting that he did not venture the length of deprivation of life or limb. Who, after these facts, can doubt of "his Lordship's fervent love of English law."

It would be endless to enumerate the enormities committed by him, or by his orders. The last accounts left him in possession of Fort William, and the property there seized by him, which in whole or in part he was meditating to convey next spring to Hudson's Bay. He had also violated the American territory, by arresting a North West partner and a clerk, on the American side of the Fond du Lac country. Thus, alike regardless of involving his country in a national quarrel, by his lawless acts, as of embroiling this community.

The proceedings of his Lordship are so greatly outrageous, that he derives an advantage therefrom with some persons, by his acts being disbelieved as incredible; and with others they are considered as a proof of his possessing some secret authority so to act, as otherwise, say such wise men, it would be insanity.

All this is extraordinary, but not half so much so as that a professional lawyer should deliberately publish a justification thereof, and gravely maintain the doctrine, that entering a house or houses, by an armed force, and seizing the property therein to an enormous

enormous amount, without legal warrant, (for no legal warrant could in such a case be given by any justice of peace, much less himself) and converting it to the use of the person ordering the seizure, is forsooth "only a mere temporary, and justifiable detention of property, to be hereafter satisfactorily explained," doubtless by the Jeddart code. Also, that as "the Earl in the execution of his duty as a magistrate (what a barefaced falsehood) became possessed of a fort which had served as the last asylum in the British dominion for murderers, and the receptacle of their plunder.—A fort which nothing less than the special licence of government could authorise subjects to hold; his Lordship would not have acted with propriety, had he replaced a fort into the hands of criminal and unauthorised subjects without acquainting the highest authority with the causes of its occupation, and receiving the sanction of his authority with regard to its future disposal." Now any man of ordinary intellect, who had not made a study of the *Jeddart Code*, would have thought it best to begin by obtaining *the sanction of authority for the taking possession of the fort*. For supposing that Lord Selkirk in the plenitude of the sovereign authority claimed by him at Red River, had there put into full operation that code, he surely had no right to apply it to Fort William, 800 miles distant; and within the jurisdiction of Upper Canada, under his commission as a Justice of Peace for the Western district of that province; and further supposing that such a commission, according to his interpretation, authorised him to *torture persons at pleasure,*

pleasure, it could not give him a particle of right to take, and retain property, especially after the causes for which he pretended to take it, had been by himself removed ;—therefore, why did his Lordship not send down, or allow to be sent down the 600 North West packs found there ? Were those packs criminals ? and if so, why were they not sent down for trial, along with those few worthless packs taken by the *brulés*, (long after Semple's plunder of packs at the Red River) which were sent down with so much parade ? or was it necessary to keep back the North West packs to satisfy his band, that he had the means of paying them, which probably some began to doubt. Upon these points Manlius leaves us in the dark.

What would be thought of the meanest pettifogger at the Old Bailey, who would gravely broach such principles in excuse for his client, as the profound Manlius, *that contemner of the opinions of Pigott, Brougham, and Spankie*, not only broaches, but contends to be sufficient excuses for his Lordly client.

If we be in the right, then the criminal code of England is a nullity. Robbery becomes meritorious, and a regard to the rights of person and property in others, if not a crime, there must be a mere foolish weakness. Each individual profiting hereafter by his Lordship's practices, under Manlius's support, will help himself to his neighbour's goods when he sees fit, and become accuser, judge, and executioner, in his own cause.

Manlius.

Manlius, also introduces and labors to prove the legality of another before unheard-of doctrine, that co-partnerships are to be accused and tried as a body upon suppositions. As, if one or more of them shall be suspected to have committed a criminal act, all the others must by this new doctrine of suppositions have participated, although distant perhaps thousands of miles. It is well known, that many persons resident in England, and in Lower Canada, are co-proprietors in the 600 packs taken, and held by his Lordship, who could not even by possibility, have participated in the alledged criminal acts. All, however, is fish that gets into his Lordship's net.

To the above, I answer, that the North West Company first occupied and still hold fort William by licence from the late General Hunter, then Lieutenant Governor of Upper Canada, and commander of his Majesty's forces in both Provinces, who sent up the late lieutenant col. Bruyere, then captain of Engineers, to locate or lay out that establishment for the use of the North West Company, until wanted for his Majesty's service. That Lord Selkirk had no special licence *from the highest, nor from any authority but his own illegal act*, to take possession of it; nor any right to retain it, and the property it contained, excepting the right of a buccaneer exercised "*upon his own responsibility.*" That the conversion to his own use, or carrying away any part of the property forcibly taken possession of by him, as above, whether arms or other moveables, is a felony. That the imprisonment and threats by his Lordship's authority, with a
view

view to induce perjury, are tyrannical and criminal. That coercing men into his service, and pretending to release them from their obligations to others, are illegal and immoral acts.

That issuing subpoenas to witnesses, can only be done by the Court and Judges before whom they are to appear, and consequently in a Justice of Peace to issue and to enforce such illegal subpoenas, by sending off those upon whom they were served, is a tyrannical and illegal proceeding.

That no Justice of Peace possesses authority to grant a warrant to seize papers, and break seals upon any pretence, and that more especially, a general warrant of search and seizure, is highly illegal and unjustifiable.

That the breaking of seals of letters (hitherto held sacred) practised by his Lordship at fort William, and the Justices of Police at Montreal, upon the advice of the advocate or advocates of a party, is most illegal, and destructive of all confidence between man and man.—That his Lordship's whole procedure at fort William evinces such a contempt of every acknowledged principle of justice and legal authority, to verify the old adage, that put power into the hands of a *violent liberty boy*, and the *tyrant* will immediately appear.

The motives for the arrest *en masse* of the North West partners are abominable, and the act itself an exercise of the most despotic power, being for the purpose

purpose of effecting the ruin of rivals in trade. The accusations of high treason are an insult to common sense, being against persons who have given testimony of their loyalty beyond the power of his Lordship or any of his sycophants to shake.—That the Red River is no colony, and his Lordship and mock governors in respect to their pretensions there, are impostors.—That the larcenies he alledged had no existence excepting in the acts of his own people, and that the pretended murders were acts forced upon the perpetrators in their own defence, against the attack of Mr. Semple and his party.

To every impartial mind it will appear most astonishing that the North West partners and people, who have on all occasions been so furiously assailed by his Lordship and advocates, as so lawless and outrageous, should have evinced at fort William such a forbearance and respect for even the mere appearance or semblance of legal authority, as to succumb, without an attempt at resistance, whilst they possessed a physical strength on their side of three to one. This is so notorious that they are reproached by many with unpardonable weakness for so doing, which surely affords *prime facie* proof of the falsehood of his Lordship's accusations. But there is a further proof, and a most conclusive one it is, being the testimony of his Lordship himself (as before produced by me) who after all, offered to leave *all complaints and retaliations* (nothing excepted) *to arbitrators*, who were to fix upon a piece of money to cancel the whole. Surely it cannot be credible, that his Lordship, had he believed his accu-

sations,

sations, would agree to estimate the wrongful shedding of human blood, by the value of packs of beaver.

His Lordship has got upon the horns of a dilemma, which all his cunning cannot extricate him from.—I had almost forgot to mention a remarkable act of sordid and illegal meanness practised by his Lordship, amongst many others, viz. his fitting out, manning, provisioning, and sending down his prisoners, at the expence of the North West Company.—This is without any English example, although probably a part of the *code Napoleon*, that persons accused pay the expence of their own trials.

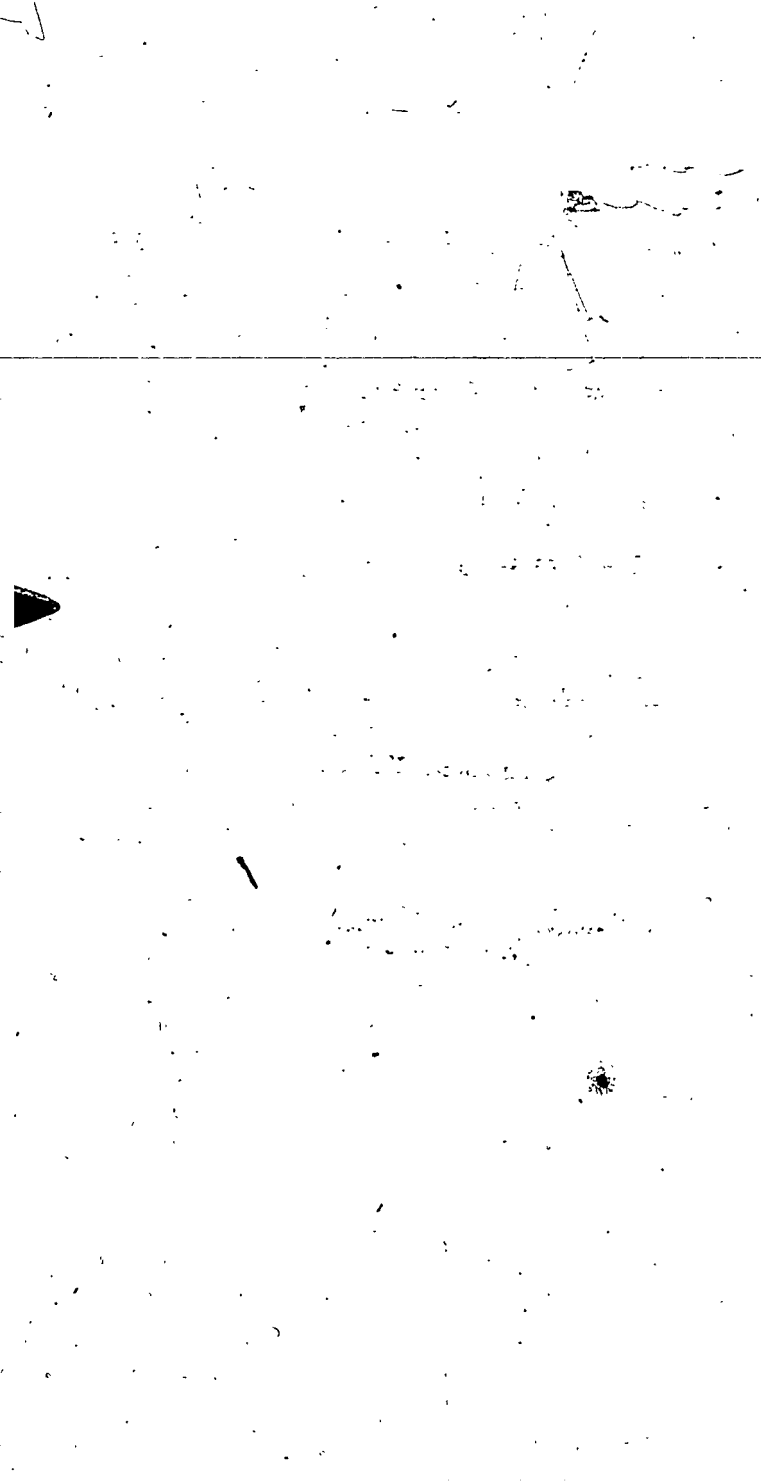
After all that has been truly stated as above, if there be yet in this society any persons so perverse in intellect, or so operated upon by envy, malice, hatred, or other uncharitableness towards their neighbours, who will still justify the acts of his Lordship, although he be a stranger to them, I do entreat, nay, conjure them, to substitute in their minds, the North West store and premises in Montreal, instead of their establishment at Fort William.—Then suppose that store and premises to have been entered by his Lordship and hired armed band, upon his own warrant, the proprietors arrested, and their clerks and servants turned out, or kept merely to execute his Lordship's pleasure, under the fear of death for refusal, and the said store occupied as a garrison by him and his foreigners, and the property therein still held by them—I ask what they would in such a case say to it.—This view of the subject, brings it near home, but there

is no difference unless in locality, for the merits are precisely alike in both instances. Fort William is in Upper Canada, 800 miles from the Red River. Montreal is in Lower Canada, and only a greater distance out of his usurped limits. Let such persons consider how they would feel if his Lordship had acted here as to themselves, as he has done to the North West Company above, and then they will open their eyes, if not wilfully blind.

I feel as confident of his Lordship being in the wrong, and of its being legally so established as of my existence, and it behoves every man of principle to join in reprobating and putting down doctrines and practices that destroy the security of persons, property, and correspondence, as hitherto enjoyed, for if he prevails, confidence in either is an idle dependance.

MERCATOR:

Montreal, 20th November 1816.



CONTINUATION
OF THE
Communications of Mercator,

UPON
THE CONTEST BETWEEN THE EARL OF SELKIRK, AND
THE HUDSON'S BAY COMPANY, ON ONE SIDE; AND
THE NORTH-WEST COMPANY ON THE OTHER.

Republished from the Montreal Herald.

WM. GRAY, PRINTER, MONTREAL.

1817.

CONTINUATION, &c.

For The Montreal Herald.

MR. GRAY,

WHEN I closed my last Communication upon the subject of the very extraordinary and outrageous conduct of Lord Selkirk at Fort William, in open defiance of law, I did not conceive it possible, that he would add to the disgrace which such proceedings attached to his character both magisterial and private. He has, however, outdone his former acts, by one of a description sordidly mean in principle, and of selfish-turpitude in sentiment.

At the time he arrested Mr. McGillivray and the other partners of the North West Company, then at that place, he also arrested one Daniel McKenzie, a retired wintering partner of that association who was particularly obnoxious to his Lordship, from being accused by him, of having endeavored to excite the Indians

dians of Fond-du-Lac to attack his pretended colony, in addition to the other accusations falsely made, wherein he was included. One would suppose, that an impartial magistrate, under such circumstances, could not avoid sending him, Daniel McKenzie, down for trial, if he sent the others; but quite the contrary took place; for public considerations are with his Lordship of no moment, unless he can warp or apply them to promote some personal or self-interested object.

Observing after the general arrest, that this Daniel McKenzie was a man of weak mind, who had abandoned himself to liquor, he instantly saw, that he might by a mixture of terror and intrigue, be worked upon, so as to be made favorable to his Lordship's views. Accordingly (after the other prisoners were sent off) he was detained, put into close confinement, furnished with the means of intemperance, and at his lucid intervals, plied by his Lordship's creatures, Mathey, D'orsennons, Doctor Allan, and Miles McDonell, who were sent to him in succession, to hold the same language; that the North West Company were completely ruined; that he, Daniel McKenzie, must infallibly lose all the property he had in that concern, or that was owing to him by the agent, unless he now did something to propitiate Lord Selkirk, who had the power of bringing him to an ignominious public trial for his life, or of releasing him therefrom, and saving his money, accordingly as he might now act towards his Lordship.

It

It was also repeatedly hinted to him, that as a partner, he had the means of conciliating his Lordship, and securing himself, by selling to him the North West property at Fort William, or elsewhere; out of which he could first pay himself, and hand over the residue to those who might have a legal right to it. By dint of repetition, these doctrines gained ground with Daniel, who was now informed that the propositions must come from him to his Lordship.

This nefarious plot, so unworthy of a Peer, and a man being thus far in a hopeful train, a paper was dictated to him, to be written to his Lordship, as the initiatory step, and his confinement was now relaxed, but he was never lost sight of by one or other of the myrmidons employed on the occasion, and not suffered to converse with any of the North West Clerks. This paper is a most curious one, being worded as if it had been the composition of himself, and is full of repetition amended by Miles McDonell, and afterwards copied by Daniel.

Upon his Lordship's receipt of this production, the negociation was developed, and papers upon papers sent to Daniel, or dictated to him, were copied, and amendments upon amendments to some of them made by Miles McDonell in his hand writing, and some even in that of his Lordship: happily some of these precious documents, so amended, were left with Daniel (which is a matter of astonishment) and furnish irrefragable proof of the base fraud that was in progress. Formal deeds were made out by his Lordship and

and copied by some of his people when they were sent to Daniel for signature, none of which (one excepted) he asserts he ever read, or at the time of his signature was in a state to comprehend : indeed his signatures compared with his former ones, furnish evident proof of this. By these papers or deeds, the merchandize and other property at Fort William (the buildings excepted,) were sold at specific prices, and the furs to be sent to England for sale, but the proceeds to go provisionally to his Lordship : An arbitration for settlement of conflicting claims, was also part of these fraudulent conventions for swindling the North West Company out of their property and trade—even moveable property at Fond du Lac, which did not belong to that Company, but happened to be in the management of one of the partners and clerks, was also conveyed to his Lordship, and the buildings at Fort William would likewise have been included, but that *these honest men* could not agree about the price, as his Lordship wanted them at a twentieth part of the cost. Had they been moveable, the price probably would not have been an insuperable objection with the Peer, as he had his own conditions, and his own time for the payment. The business being thus adjusted to his Lordship's mind, and to the saving of his tender conscience, Daniel was finally released, white-washed from alleged crime, and allowed to leave Fort William, to go where he pleased.

The papers on the face of them bear the mark of fraud, and show such a want of sound mind and freedom of action in one of the parties, as to destroy even the

the appearance of validity ; there is no reciprocity ; all are stipulations, where the one gives, and the other receives the whole benefit. It is true the *honest Daniel* (not *Nathaniel*) receives fifty guineas in hand, to nail the bargain, and his Lordship, as a further consideration, is to convey an estate of three thousand pounds a year, but whether in the moon, or else where is not said.

There is another *trifling difficulty* about the validity of these *honest men's doings*. Daniel had no power or right to transfer ; no not to sell, to any other than a member of the Company, even his own interest in it as a retired partner. There is also a special clause in the articles of copartnership and agreement, respecting the *powers* of wintering partners, *which* are confined to the trade of their own department or post, with Indians, and all acts by them, of a general nature, are prohibited and made competent only to the acknowledged agents, who alone can make purchases or sales for the concern at large. His Lordship knew all this, for by the previous wholesale robbery at Fort William, he became possessed of all the books and papers of the Company, and amongst them one of the original copies of the said articles, which he had most dishonestly and dishonorably pryed into, and read. But were it otherwise, what man of common sense or honesty, would maintain the monstrous proposition, that a person holding a small interest with limited powers (or properly speaking, no powers, he having retired) in an extensive concern, where the copartners are numerous, could, by his separate act, transfer not only a portion of the general property, fifty fold beyond

yond his own share in it, but expressly intended to destroy such general concern, and its interests, in order to transfer the same to a rival, who had on the very face of the papers, bribed the vendor into the conventions.

A collusion of two parties to deeds to defraud other persons, who so far from being consulted, had a direct interest in opposition to the bare-faced fraud attempted to be imposed upon them, was never more clearly manifest; or more devoid of every attribute to constitute validity, than in the present case.

It is to me astonishing, how any man of sane mind, could think to impose upon others a belief, that such a wholesale swindle could be sustained, or have a particle of efficacy in covering or lessening the turpitude of the means, by which Lord Selkirk possessed himself of Fort William, and the property so attempted to be conveyed to him.

What would be thought in England of his Lordship, had he purchased there from a small proprietor or share holder in the Phoenix fire Office, or in any other unchartered company in that country, not only his own interest therein, but the whole property of the concern, to be transferred to him as a rival, in direct opposition to the constitution, of such concern, and to defraud the other proprietors? Would he dare to support the legality of such a purchase?

In numerous associations, none but directors, managers,

managers, or agents, (it is immaterial what appellation they adopt) can do the business of such associations; and the Agents of the North West Company were, from its original formation, publicly known and recognized, as the only executive representatives of that concern.

His Lordship's turpitude does not even rest here. He sent Miles McDonell to request Daniel to write letters to one Roderick McKenzie, and to the partners and clerks of the North West Company in the interior, to advise them to carry the packs, which they may trade this winter, to Hudson's Bay next spring, (from whence they might find a passage to England) in order to indemnify themselves, as the North West Company, (says he) is totally ruined. Enquiring afterwards if such letters had been written, and finding not, his Lordship desired that their names might be given to Miles McDonell, who could write in Daniel's name. Daniel recommended to the Clerks, and even to wintering partners of that Company, by his Lordship's desire, to follow his orders, as the only way of ingratiating themselves with him, to save them from ruin.

Nay, to such a pitch of shameless and unprincipled audacity has his Lordship gone in these fraudulent proceedings, that Daniel was made to write to Cuthbert Grant, a half-breed at the Red River, (one of those, for the arrest of whom warrants signed by his Lordship had last spring been sent to Mr Semple, with directions to be executed only in case that they

would not come over to his Lordship's views) against whom Lord Selkirk was most indignant and vindictive, as having been with the escort or band who resisted the unprovoked attack made upon them last June, by Mr Semple and his people, when he, and many of them unhappily fell victims to their temerity and aggression.

His Lordship made Daniel leave an opening to this Cuthbert Grant for pardon and oblivion of all, if he would turn now and support his interests; adding by way of bait or salvo, that his Lordship was induced to this, from Grant having exerted himself, although ineffectually, to save Mr Semple's life.

Thus, it is seen, as I have on a former occasion observed, that his Lordship's *polar star* is *self-interest*, to which all *public considerations*, and the rights of others, are invariably sacrificed by him. No man, who had not become callous, could possibly have used magisterial authority for the systematic purpose of destroying rivals, in order to engross their trade by himself and copartners. He probably presumes upon impunity, by reason of his rank and influence, but sadly indeed must Britons be changed, *if*, when the truth, and the above mentioned swindle are known by them, *that rank* be not considered an aggravation of his crimes.

Since the capture of Fort William, he sent a party to take the North West Post at Lake La Pluie, occupied by a clerk and a few men. The commander
of

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of the expedition, Captain D'Orsennons, began as usual, by robbing the post of its powder and ammunition, placed there for Indian Trade, pretending it was done as a precaution to prevent injury to His Majesty's subjects; and then compelled the clerk to deliver over to him, for his Lordship, all the goods and provisions, &c. under an inventory, assuring him upon his, *D'Orsennon's Honor*, (doubtless a very substantial security) that legal authority to take the property, and dispossess the clerk, was to follow. Here again the *Jeddard Code* is his rule. First do the act, and find an authority for so doing at leisure: the clerk and people were laid hold of, and sent away to Fort William, but the legal authority is to be found only in the will of this self-styled Sovereign Lord of Assiniboia.

He and his people are living upon the provisions and means found by him at Fort William, belonging to the North West Company; which, if he possessed the common feelings of our nature, I should think would occasionally stick in his throat, as the fruits of dishonesty.

To add to his other feats, he has resisted a legal warrant served upon him and his officers in due form, which warrant was granted by a Justice of Peace for the Western District of Upper Canada, upon affidavits regularly made before him, he being a magistrate, under the like appointment, and with the same authority, by which his Lordship has issued his warrants at Fort William. This Magistrate has this

most essential superiority over his Lordship, that he had no interest whatever dependant upon the issue of the warrant so granted; whereas all his Lordship's warrants were issued *in his own cause*, and for his own benefit.

The above statements are substantially and literally correct, and supported upon testimony, which no artifice or quibble can overthrow. The only thing that can be said for Daniel McKenzie, in extenuation of his conduct, in so shameful a dereliction of moral and conventional duty, is; that the first opportunity he had as a freeman, after getting out of his Lordship's clutches, where he apprehended his life to be in danger, was to go voluntarily to the nearest magistrate, viz. at Drummond's Island, and before him to make oath to the circumstances under which he acted, and formally to protest against his own illegal part in the fraudulent transactions above narrated.

How base must be the tempter, when the tempted thus voluntarily abjures and recants his participation in so foul a business?

The last accounts left his Lordship and band occupied in making a road from Fort William towards the American frontier, probably in contemplation of endeavoring to remove in the spring the extensive plunder he has acquired.

MERCATOR.

Montreal, 5th Feb. 1817.

ERRATA.

Page 10—3d line from the top of the Page, for *courts of Law*, read *Courts of Law*.

Page 12—7th line from the bottom of the Page, for ~~were~~, read ~~was~~.
Bottom of the Page, for *session*, read *cession*.

Page 27—7 lines from the bottom of the Page, for *Contests*, read *Contest*.

Page 28—33 line from the top of the page, for *propriety*, read *proprietary*.

Page 29—19 lines from the top of the page, for *he seized*, read *he seized, saying*.

Page 47—7th line from the top of the Page, for *as also of his never taking*, read *as also of his never having taken*.

Page 53—9th line from the top of the Page, for *depository*, read *depository*.

Page 61—5th line from the top of the Page, for *ought*, read *ought*.

Page 63—9th line from the bottom of the Page, for ~~there read their~~.

Page 68—7th line from the bottom of the Page, for *about same time*, read *about the same time*.

2d line from the bottom of the Page, for *about same time*, read *about the same time*.

Page 72—Top of the Page, for *Employ of that Company*, read *Employ of the North West Company*.

Page 94—4th line from the bottom of the Page, for *practises*, read *practices*.